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LEGISLATIVE HISTORY

Public Law 104--80th Congress

Chapter 125--1st Session

H. R. 1237

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DIGEST OF PUBLIC LAW 104

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT. Replaces the Insecticide Act of 1910 and includes provisions to require this Department to regulate the marketing of rodenticides, weed killers, pest-control devices, etc.

INDEX AND SUMMARY OF HISTORY ON H. R. 1237

January 23, 1947	H. R. 1237 was introduced by Rep. Andresen and was referred to the House Committee on Agriculture. Print of the bill as introduced.
April 11, 1947	Hearings: House, H. R. 1237. Resume of testimony during hearings.
April 18, 1947	H. R. 1237 ordered reported.
April 24, 1947	H. R. 1237 ordered reported.
April 25, 1947	House Committee on Agriculture reported H. R. 1237 with amendment. H. Rept. 313. Print of the bill as reported.
May 12, 1947	H. R. 1237 debated in the House and passed as reported.
May 13, 1947	H. R. 1237 was referred to the Senate Committee on Agriculture and Forestry. Print of the bill as referred.
May 26, 1947	Senate Committee on Agriculture and Forestry reported H. R. 1237 without amendment. Senate Report 199. Print of the bill as reported.
June 16, 1947	Discussed in the Senate and passed as reported.
June 25, 1947	Approved. Public Law 104.

80TH CONGRESS
1ST SESSION

H. R. 1237

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H. R. 1237

IN THE HOUSE OF REPRESENTATIVES

JANUARY 23, 1947

MR. AUGUST H. ANDRESEN introduced the following bill; which was referred to the Committee on Agriculture

A BILL

To regulate the marketing of economic poisons and devices, and
for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 TITLE

SECTION 1. This Act may be cited as the “Federal
Insecticide, Fungicide, and Rodenticide Act”.

6 DEFINITIONS

7 SEC. 2. For the purposes of this Act—

8 a. The term “economic poison” means any substance
9 or mixture of substances intended for preventing, destroying,
10 repelling, or mitigating any insects, rodents, fungi, weeds,
11 and other forms of plant or animal life or viruses, except

1 viruses on or in living man or other animals, which the
2 Secretary shall declare to be a pest.

3 b. The term "device" means any instrument or con-
4 trivance intended for trapping, destroying, repelling, or
5 mitigating insects or rodents or destroying, repelling, or
6 mitigating fungi or weeds, or such other pests as may be
7 designated by the Secretary, but not including equipment
8 used for the application of economic poisons when sold
9 separately therefrom.

10 c. The term "insecticide" means any substance or
11 mixture of substances intended for preventing, destroying,
12 repelling, or mitigating any insects which may be present
13 in any environment whatsoever.

14 d. The term "fungicide" means any substance or mix-
15 ture of substances intended for preventing, destroying, re-
16 pelling, or mitigating any fungi.

17 e. The term "rodenticide" means any substance or
18 mixture of substances intended for preventing, destroying,
19 repelling, or mitigating rodents or any other vertebrate ani-
20 mal which the Secretary shall declare to be a pest.

21 f. The term "herbicide" means any substance or mixture
22 of substances intended for preventing, destroying, repelling,
23 or mitigating any weed.

24 g. The term "weed" means any plant which grows
25 where not wanted.

1 h. The term “insect” means any of the numerous small
2 invertebrate animals generally having the body more or
3 less obviously segmented, for the most part belonging to
4 the class insecta, comprising six-legged, usually winged
5 forms, as, for example, beetles, bugs, bees, flies, and to
6 other allied classes of arthropods whose members are wing-
7 less and usually have more than six legs, as, for example,
8 spiders, mites, ticks, centipedes, and wood lice.

9 i. The term “fungi” means all non-chlorophyll-bearing
10 thallophytes (that is, all non-chlorophyll-bearing plants of
11 a lower order than mosses and liverworts) as, for example,
12 rusts, smuts, mildews, molds, yeasts, and bacteria, except
13 those on or in living man or other animals.

14 j. The term “ingredient statement” means either—

15 (1) a statement of the name and percentage of
16 each active ingredient, together with the total percent-
17 age of the inert ingredients, in the economic poison; or

18 (2) a statement of the name of each active in-
19 gredient, together with the name of each and total per-
20 centage of the inert ingredients, if any there be, in the
21 economic poison (except option 1 shall apply if the
22 preparation is highly toxic to man, determined as pro-
23 vided in section 6 of this Act) ;

24 and, in addition to (1) or (2) in case the economic poison
25 contains arsenic in any form, a statement of the percentages

1 of total and water soluble arsenic, each calculated as
2 elemental arsenic.

3 k. The term "active ingredient" means an ingredient
4 which will prevent, destroy, repel, or mitigate insects, fungi,
5 rodents, weeds or other pests.

6 l. The term "inert ingredient" means an ingredient
7 which is not active.

8 m. The term "antidote" means a practical immediate
9 treatment in case of poisoning and includes first-aid
10 treatment.

11 n. The term "person" means any individual, partner-
12 ship, association, corporation, or any organized group of
13 persons whether incorporated or not.

14 o. The term "Territory" means any Territory or pos-
15 session of the United States, excluding the Canal Zone.

16 p. The term "Secretary" means the Secretary of
17 Agriculture.

18 q. The term "registrant" means the person registering
19 any economic poison pursuant to the provisions of this Act.

20 r. The term "label" means the written, printed, or
21 graphic matter on, or attached to, the economic poison or
22 device or the immediate container thereof, and the outside

1 container or wrapper of the retail package, if any there be,
2 of the economic poison or device.

3 s. The term "labeling" means all labels and other
4 written, printed, or graphic matter—

5 (1) upon the economic poison or device or any of
6 its containers or wrappers;

7 (2) accompanying the economic poison or device
8 at any time;

9 (3) to which reference is made on the label or in
10 literature accompanying the economic poison or device,
11 except to current official publications of the United States
12 Departments of Agriculture and Interior, the United
13 States Public Health Service, State experiment stations,
14 State agricultural colleges, and other similar Federal or
15 State institutions or agencies authorized by law to
16 conduct research in the field of economic poisons;

17 t. The term "adulterated" shall apply to any economic
18 poison if its strength or purity falls below the professed
19 standard or quality as expressed on its labeling or under
20 which it is sold, or if any substance has been substituted
21 wholly or in part for the article, or if any valuable con-
22 stituent of the article has been wholly or in part abstracted.

23 u. The term "misbranded" shall apply—

1 (1) to any economic poison or device if its label-
2 ing bears any statement, design, or graphic representa-
3 tion relative thereto or to its ingredients which is false
4 or misleading in any particular;

5 (2) to any economic poison—

6 (a) if it is an imitation of or is offered for
7 sale under the name of another economic poison;

8 (b) if its labeling bears any reference to reg-
9 istration under this Act;

10 (c) if the labeling accompanying it does not
11 contain instructions for use which are necessary
12 and if complied with adequate for the protection
13 of the public;

14 (d) if the label does not contain a warning
15 or caution statement which may be necessary and
16 if complied with adequate to prevent injury to living
17 man and other vertebrate animals, vegetation, and
18 useful invertebrate animals;

19 (e) if the label does not bear an ingredient
20 statement on that part of the immediate container
21 and on the outside container or wrapper, if there
22 be one, through which the ingredient statement on
23 the immediate container cannot be clearly read,

1 of the retail package which is presented or displayed
2 under customary conditions of purchase;

3 (f) if any word, statement, or other informa-
4 tion required by or under authority of this Act
5 to appear on the label or labeling is not prominently
6 placed thereon with such conspicuousness (as com-
7 pared with other words, statements, designs, or
8 graphic matter in the labeling) and in such terms
9 as to render it likely to be read and understood by
10 the ordinary individual under customary conditions
11 of purchase and use; or

12 (g) if in the case of an insecticide, fungicide,
13 or herbicide when used as directed or in accordance
14 with commonly recognized practice it shall be in-
15 jurious to living man or other vertebrate animals,
16 or vegetation, except weeds, to which it is applied,
17 or to the person applying such economic poison.

18 PROHIBITED ACTS

19 SEC. 3. (a) It shall be unlawful for any person to
20 distribute, sell, or offer for sale in any Territory or in the
21 District of Columbia, or to ship or deliver for shipment from
22 any State, Territory, or the District of Columbia to any other
23 State, Territory, or the District of Columbia, or to any for-

1 eign country, or to receive in any State, Territory, or the
2 District of Columbia from any other State, Territory, or the
3 District of Columbia, or foreign country, and having so
4 received, deliver or offer to deliver to any other person any
5 of the following:

6 (1) Any economic poison which has not been registered
7 pursuant to the provisions of section 4 of this Act, or
8 any economic poison if any of the claims made for it or
9 any of the directions for its use differ in substance from
10 the representations made in connection with its registra-
11 tion, or if the composition of an economic poison differs
12 from its composition as represented in connection with its
13 registration: *Provided*, That in the discretion of the Secre-
14 tary, a change in the labeling or formula of an economic
15 poison may be made within a registration period without
16 requiring reregistration of the product.

17 (2) Any economic poison unless it is in the registrant's
18 or the manufacturer's unbroken immediate container, and
19 there is affixed to such container, and to the outside con-
20 tainer or wrapper of the retail package, if there be one
21 through which the required information on the immediate
22 container cannot be clearly read, a label bearing—

23 (a) the name and address of the manufacturer,
24 registrant, or person for whom manufactured;

1 (b) the name, brand, or trade-mark under which
2 said article is sold; and

3 (c) the net weight or measure of the content:

4 *Provided*, That the Secretary may permit reasonable
5 variations.

6 (3) Any economic poison which contains any sub-
7 stance or substances in quantities highly toxic to man,
8 determined as provided in section 6 of this Act, unless the
9 label shall bear, in addition to any other matter required
10 by this Act—

11 (a) the skull and crossbones;

12 (b) the word “poison” prominently (IN RED)
13 on a background of distinctly contrasting color; and

14 (c) a statement of an antidote for the economic
15 poison.

16 (4) The economic poisons commonly known as a stand-
17 ard lead arsenate, basic lead arsenate, calcium arsenate, mag-
18 nesium arsenate, zinc arsenate, zinc arsenite, sodium fluoride,
19 sodium fluosilicate, and barium fluosilicate unless they have
20 been distinctly colored or discolored as provided by regula-
21 tions issued in accordance with this Act, or any other white
22 powder economic poison which the Secretary, after investiga-
23 tion of and after public hearing on the necessity for such
24 action for the protection of the public health and the feasi-

1 bility of such coloration or discoloration, shall, by regulation,
2 require to be distinctly colored or discolored, unless it has
3 been so colored or discolored: *Provided*, That the Secretary
4 may exempt any economic poison to the extent that it is
5 intended for a particular use or uses from the coloring or dis-
6 coloring required or authorized by this section if he deter-
7 mines that such coloring or discoloring for such use or uses
8 is not necessary for the protection of the public health.

9 (5) Any economic poison which is adulterated or
10 misbranded or any device which is misbranded.

11 b. Notwithstanding any other provision of this Act, no
12 article shall be deemed in violation of this Act when intended
13 solely for export to any foreign country and prepared or
14 packed according to the specifications or directions of the
15 foreign purchaser.

16 c. It shall be unlawful—

17 (1) for any person to detach, alter, deface, or
18 destroy, in whole or in part, any label or labeling pro-
19 vided for in this Act or the rules and regulations promul-
20 gated hereunder, or to add any substance to, or take
21 any substance from, an economic poison in a manner
22 that may defeat the purpose of this Act;

23 (2) for any manufacturer, distributor, dealer, car-

1 rier, or other person to refuse, upon a request in writ-
2 ing specifying the nature or kind of economic poison
3 or device to which such request relates, to furnish to or
4 permit any person designated by the Secretary to have
5 access to and to copy such records as authorized by
6 section 5 of this Act;

7 (3) for any person to give a guaranty or under-
8 taking provided for in section 7 which is false in any
9 particular, except that a person who receives and relies
10 upon a guaranty authorized under section 7 may give
11 a guaranty to the same effect, which guaranty shall
12 contain in addition to his own name and address the
13 name and address of the person residing in the United
14 States from whom he received the guaranty or under-
15 taking; and

16 (4) for any person to use for his own advantage
17 or to reveal, other than to the Secretary, or officials
18 or employees of the United States Department of Agri-
19 culture, or other Federal agencies, or to the courts in
20 response to a subpoena, or to physicians, and in
21 emergencies to pharmacists and other qualified persons,
22 for use in the preparation of antidotes, in accordance
23 with such directions as the Secretary may prescribe;

1 any information relative to formulas of products ac-
2 quired by authority of section 4 of this Act.

3 REGISTRATION

SEC. 4. a. Every economic poison which is distributed,
sold, or offered for sale in any Territory or the District of
Columbia, or which is shipped or delivered for shipment
from any State, Territory, or the District of Columbia to
any other State, Territory, or the District of Columbia, or
which is received from any foreign country shall be reg-
istered with the Secretary: *Provided*, That products which
have the same formula, are manufactured by the same per-
son, the labeling of which contains the same claims, and
the labels of which bear a designation identifying the product
as the same economic poison may be registered as a single
economic poison; and additional names and labels shall be
added by supplement statements; the registrant shall file
with the Secretary a statement including—

(1) the name and address of the registrant and
the name and address of the person whose name will
appear on the label, if other than the registrant;

21 (2) the name of the economic poison;

(3) a complete copy of the labeling accompanying the economic poison and a statement of all claims to be made for it, including the directions for use; and

25 (4) if requested by the Secretary, a full descrip-

tion of the tests made and the results thereof upon which the claims are based.

b. The Secretary, whenever he deems it necessary for the effective administration of this Act, may require the submission of the complete formula of the economic poison. If it appears to the Secretary that the composition of the article is such as to warrant the proposed claims for it and if the article and its labeling and other material required to be submitted comply with the requirements of section 3 of this Act, he shall register it.

c. If it does not appear to the Secretary that the article is such as to warrant the proposed claims for it or if the article and its labeling and other material required to be submitted do not comply with the provisions of this Act, he shall notify the registrant of the manner in which the article, labeling, or other material required to be submitted fail to comply with the Act so as to afford the registrant an opportunity to make the corrections necessary. If, upon receipt of such notice, the registrant insists that such corrections are not necessary and requests in writing that it be registered, the Secretary shall register the article, under protest, and such registration shall be accompanied by a warning, in writing, to the registrant of the apparent failure of the article to comply with the provisions of this Act. In order to protect

1 the public, the Secretary, on his own motion, may at any
2 time, cancel the registration of an economic poison and in
3 lieu thereof issue a registration under protest in accordance
4 with the foregoing procedure. In no event shall registration
5 of an article, whether or not protested, be construed as a
6 defense for the commission of any offense prohibited under
7 section 3 of this Act.

8 d. Notwithstanding any other provision of this Act,
9 registration is not required in the case of an economic poison
10 shipped from one plant to another plant operated by the
11 same person and used solely at such plant as a constituent
12 part to make an economic poison which is registered under
13 this Act.

14 BOOKS AND RECORDS

15 SEC. 5. For the purposes of enforcing the provisions
16 of this Act, any manufacturer, distributor, carrier, dealer,
17 or any other person who sells or offers for sale, delivers or
18 offers for delivery, or who receives or holds any economic
19 poison or device subject to this Act, shall, upon request of
20 any employee of the United States Department of Agricul-
21 ture or any employee of any State, Territory, or political
22 subdivision, duly designated by the Secretary, furnish or
23 permit such person at all reasonable times to have access
24 to, and to copy all records showing the delivery, movement,
25 or holding of such economic poison or device, including the

1 quantity, the date of shipment and receipt, and the name
2 of the consignor and consignee; and in the event of the
3 inability of any person to produce records containing such
4 information, all other records and information relating to
5 such delivery, movement, or holding of the economic poison
6 or device. Notwithstanding this provision, however, the
7 specific evidence obtained under this section shall not be
8 used in a criminal prosecution of the person from whom
9 obtained.

10 ENFORCEMENT

11 SEC. 6. a. The Secretary (except as otherwise pro-
12 vided in this section) is authorized to make rules and regu-
13 lations for carrying out the provisions of this Act, including
14 the collection and examination of samples of economic
15 poisons and devices subject to this Act. The Secretary
16 is, in addition, authorized after opportunity for hearing—

17 (1) to declare a pest any form of plant or animal
18 life or virus which is injurious to plants, man, domestic
19 animals, articles, or substances;

20 (2) to determine economic poisons, and quantities
21 of substances contained in economic poisons, which are
22 highly toxic to man; and

23 (3) to determine standards of coloring or discolor-
24 ing for economic poisons, and to subject economic

1 poisons to the requirements of section 3a (4) of this
2 Act.

3 b. The Secretary of the Treasury and the Secretary of
4 Agriculture shall jointly prescribe regulations for the enforce-
5 ment of section 10 of this Act.

6 c. The examination of economic poisons or devices shall
7 be made in the United States Department of Agriculture
8 or elsewhere as the Secretary may designate for the purpose
9 of determining from such examination whether they comply
10 with the requirements of this Act, and if it shall appear
11 from any such examination that they fail to comply with the
12 requirements of this Act, the Secretary shall cause notice
13 to be given to the person against whom criminal proceedings
14 are contemplated. Any person so notified shall be given an
15 opportunity to present his views, either orally or in writing,
16 with regard to such contemplated proceedings, and if in the
17 opinion of the Secretary it appears that the provisions of
18 this Act have been violated by such person, then the
19 Secretary shall certify the facts to the proper United States
20 attorney, with a copy of the results of the analysis or the
21 examination of such article: *Provided*, That nothing in this
22 Act shall be construed as requiring the Secretary to report
23 for prosecution or for the institution of libel proceedings
24 minor violations of this Act whenever he believes that the

1 public interest will be adequately served by a suitable written
2 notice of warning.

3 d. It shall be the duty of each United States attorney,
4 to whom the Secretary or his agents shall report any viola-
5 tion of this Act, to cause appropriate proceedings to be
6 commenced and prosecuted in the proper courts of the United
7 States without delay.

8 e. The Secretary shall, by publication in such manner
9 as he may prescribe, give notice of all judgments entered
10 in actions instituted under the authority of this Act.

11 EXEMPTIONS

12 SEC. 7. a. The penalties provided for a violation of
13 section 3a of this Act shall not apply to—

14 (1) any person who establishes a guaranty signed
15 by, and containing the name and address of, the regis-
16 trant or person residing in the United States from whom
17 he purchased and received in good faith the article in
18 the same unbroken package, to the effect that the article
19 was lawfully registered at the time of sale and delivery
20 to him, and that it complies with the other requirements
21 of this Act, designating this Act. In such case the
22 guarantor shall be subject to the penalties which would
23 otherwise attach to the person holding the guaranty
24 under the provisions of this Act;

(2) any carrier while lawfully engaged in transporting an economic poison or device if such carrier upon request by a person duly designated by the Secretary shall permit such person to copy all records showing the transactions in and movement of the articles;

6 (3) to public officials while engaged in the per-
7 formance of their official duties;

(4) to the manufacturer or shipper of an economic poison for experimental use only by or under the supervision of any Federal or State agency authorized by law to conduct research in the field of economic poisons; or by others if a permit has been obtained before shipment in accordance with regulations promulgated by the Secretary.

15 PENALTIES

16 SEC. 8. a. Any person violating section 3a (1) of
17 this Act shall be guilty of a misdemeanor and shall on con-
18 viction be fined not more than \$1,000.

b. Any person violating any provision other than section 3a (1) of this Act shall be guilty of a misdemeanor and shall upon conviction be fined not more than \$500 for the first offense, and on conviction of each subsequent offense be fined not more than \$1,000: *Provided*, That an offense committed more than five years after the last previous conviction shall be considered a first offense: *And provided*

1 *further*, That in any case where a registrant was issued a
2 warning by the Secretary pursuant to the provisions of sec-
3 tion 4 c of this Act, he shall in each instance upon conviction
4 for an offense concerning which he had been so warned, be
5 fined not more than \$1,000 or imprisoned for not more than
6 one year, or both such fine and imprisonment; and the reg-
7 istration of the article with reference to which the violation
8 occurred shall terminate automatically. An article the reg-
9 istration of which has been terminated may not again be
10 registered unless the article, its labeling, and other material
11 required to be submitted appear to the Secretary to comply
12 with all the requirements of this Act.

13 c. Notwithstanding any other provision of this section,
14 in case any person, with intent to defraud, uses or reveals
15 information relative to formulas of products acquired under
16 the authority of section 4 of this Act, he shall be fined not
17 more than \$10,000 or imprisoned for not more than three
18 years, or both such fine and imprisonment.

19 d. When construing and enforcing the provisions of
20 this Act, the act, omission, or failure, of any officer, agent,
21 or other person acting for or employed by any person
22 shall in every case be also deemed to be the act, omission,
23 or failure of such person as well as that of the person
24 employed.

SEIZURES

1
2 SEC. 9. a. Any economic poison or device that is being
3 transported from one State, Territory, or District to another,
4 or, having been transported, remains unsold or in original
5 unbroken packages, or that is sold or offered for sale in
6 the District of Columbia or any Territory, or that is
7 imported from a foreign country, shall be liable to be pro-
8 ceeded against in any district court of the United States
9 in the district where it is found and seized for confiscation
10 by a process of libel for condemnation—

11 (1) in the case of an economic poison—

12 (a) if it is adulterated or misbranded;

13 (b) if it has not been registered pursuant to
14 the provisions of section 4 of this Act;

15 (c) if it fails to bear on its label the informa-
16 tion required by this Act; or

17 (d) if it is a white powder economic poison
18 and is not colored as required under this Act; or

19 (2) in the case of a device if it is misbranded.

20 b. If the article is condemned it shall, after entry of
21 the decree, be disposed of by destruction or sale as the court
22 may direct and the proceeds, if sold, less the legal costs,
23 shall be paid into the Treasury of the United States, but
24 the article shall not be sold contrary to the provisions of
25 this Act or of the laws of the jurisdiction in which it is

1 sold: *Provided*, That upon the payment of the costs of the
2 libel proceedings and the execution and delivery of a good
3 and sufficient bond conditioned that the article shall not be
4 sold or otherwise disposed of contrary to the provisions of
5 this Act or the laws of any State, Territory, or District in
6 which sold, the court may direct that such articles be de-
7 livered to the owner thereof. The proceedings of such libel
8 cases shall conform, as near as may be, to the proceedings
9 in admiralty, except that either party may demand trial by
10 jury of any issue of fact joined in any case, and all such
11 proceedings shall be at the suit of and in the name of the
12 United States.

13 c. When a decree of condemnation is entered against
14 the article, court costs and fees, storage, and other proper
15 expenses shall be awarded against the person, if any, inter-
16 vening as claimant of the article.

17 IMPORTS

18 SEC. 10. The Secretary of the Treasury shall notify the
19 Secretary of Agriculture of the arrival of economic poisons
20 and devices offered for importation and shall deliver to the
21 Secretary of Agriculture, upon his request, samples of eco-
22 nomic poisons or devices which are being imported or offered
23 for import into the United States, giving notice to the
24 owner or consignee, who may appear before the Secretary
25 of Agriculture and have the right to introduce testimony.

1 If it appears from the examination of a sample that it is
2 adulterated or misbranded or otherwise violates the pro-
3 hibitions set forth in this Act, or is otherwise dangerous to
4 the health of the people of the United States, or is of a
5 kind forbidden entry into or forbidden to be sold or restricted
6 in sale in the country in which it is made or from which
7 it is exported, the said article may be refused admission,
8 and the Secretary of the Treasury shall refuse delivery to
9 the consignee and shall cause the destruction of any goods
10 refused delivery which shall not be exported by the con-
11 signee within three months from the date of notice of such
12 refusal under such regulations as the Secretary of the Treas-
13 ury may prescribe: *Provided*, That the Secretary of the
14 Treasury may deliver to the consignee such goods pending
15 examination and decision in the matter on execution of a
16 penal bond for the amount of the full invoice value of such
17 goods, together with the duty thereon, and on refusal to
18 return such goods for any cause to the custody of the Secre-
19 tary of the Treasury, when demanded, for the purpose of
20 excluding them from the country, or for any other purpose,
21 said consignee shall forfeit the full amount of the bond:
22 *And provided further*, That all charges for storage, cartage,
23 and labor on goods which are refused admission or delivery

1 shall be paid by the owner or consignee, and in default of
2 such payment shall constitute a lien against any future
3 importation made by such owner or consignee.

4 DELEGATION OF DUTIES

5 SEC. 11. All authority vested in the Secretary by virtue
6 of the provisions of this Act may with like force and effect
7 be executed by such employees of the United States Depart-
8 ment of Agriculture as the Secretary may designate for the
9 purpose.

10 AUTHORIZATION FOR APPROPRIATIONS AND EXPENDITURES

11 SEC. 12. a. There is hereby authorized to be appropri-
12 ated, out of any moneys in the Treasury not otherwise appro-
13 priated, such sums as may be necessary for the purposes
14 and administration of this Act. In order to carry out the
15 provisions of this Act, which take effect prior to the repeal
16 of the Insecticide Act of 1910, appropriations available for
17 the enforcement of such Act are authorized to be made
18 available.

19 b. The Secretary is authorized from the funds appro-
20 priated for this Act to make such expenditures as he deems
21 necessary, including rents, travel, supplies, books, samples,
22 testing devices, furniture, equipment, and such other expenses
23 as may be necessary to the administration of this Act.

1

COOPERATION

2

SEC. 13. The Secretary is authorized to cooperate with
3 any other department or agency of the Federal Government
4 and with the official regulatory agency of any State, or any
5 State, Territory, District, possession, or any political sub-
6 division thereof, in carrying out the provisions of this Act,
7 and in securing uniformity of regulations.

8

SEPARABILITY

9

SEC. 14. If any provision of this Act is declared un-
10 constitutional, or the applicability thereof to any person or
11 circumstance is held invalid, the constitutionality of the
12 remainder of this Act and the applicability thereof to other
13 persons and circumstances shall not be affected thereby.

14

EFFECTIVE DATE

15

SEC. 15. All provisions of this Act, except section 3,
16 "Prohibited Acts"; section 8, "Penalties"; section 9, "Sei-
17 zures"; and section 10, "Imports", shall take effect upon
18 enactment, and sections 3, 8, 9, and 10 of this Act shall
19 take effect as follows: (1) As to devices, upon enactment;
20 (2) as to rodenticides and herbicides, six months after
21 enactment; and (3) as to insecticides, fungicides, and all
22 other economic poisons, one year after enactment: *Provided*,
23 That the Secretary, upon application, may at any time within

1 one year after sections 3, 8, 9, and 10 of this Act become
2 applicable to devices, rodenticides and herbicides, and insecti-
3 cides, fungicides, and other economic poisons, respectively,
4 if he determines that such action will not be unduly detri-
5 mental to the public interest, and is necessary to avoid
6 hardship, exempt, under such terms and conditions as he
7 may prescribe, any economic poison from the provisions of
8 this Act if such economic poison was labeled, shipped, and
9 delivered by the manufacturer thereof prior to the time the
10 sections of this Act referred to above become applicable to
11 such economic poison and in case the economic poison is an
12 insecticide or fungicide if its sale, delivery, or shipment has
13 not been and will not be in violation of the provisions of the
14 Insecticide Act of 1910.

15 REPEALS

16 SEC. 16. The Insecticide Act of 1910, approved April
17 26, 1910 (36 Stat. 331, 7 U. S. C. 121-134), is hereby
18 repealed one year after the date of the enactment of this
19 Act: *Provided*, That, with respect to violations, liabilities
20 incurred, or appeals taken prior to said date, and with
21 respect to sales, shipments, or deliveries of insecticides and
22 fungicides under an exemption granted by the Secretary
23 under section 15, all provisions of the Insecticide Act of

1 1910 shall be deemed to remain in full force for the purpose
2 of sustaining any proper suit, action, or other proceeding
3 with respect to any such violations, liabilities, appeals, or
4 to such sales, shipments, or deliveries of insecticides and
5 fungicides exempted by the Secretary under section 15.

80TH CONGRESS
1ST Session

H. R. 1237

A BILL

To regulate the marketing of economic poisons
and devices, and for other purposes.

By Mr. AUGUST H. ANDRESEN

JANUARY 23, 1947

Referred to the Committee on Agriculture

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

HEARINGS BEFORE SUBCOMMITTEE OF THE COMMITTEE ON AGRICULTURE HOUSE OF REPRESENTATIVES EIGHTIETH CONGRESS FIRST SESSION ON H. R. 1237 A BILL TO REGULATE THE MARKETING OF ECONOMIC POISONS AND DEVICES, AND FOR OTHER PURPOSES

APRIL 11, 1947

Printed for the use of the Committee on Agriculture



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WASHINGTON : 1947

SUBCOMMITTEE NO. 1

Mr. ANDRESEN, *Chairman*

Mr. GILLIE
Mr. SIMPSON
Mr. DAGUE

Mr. FLANNAGAN
Mr. GRANT
Mr. McMILLAN

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FEDERAL INSECTICIDE, FUNGICIDE AND RODENTICIDE ACT

FRIDAY, APRIL 11, 1947

HOUSE OF REPRESENTATIVES,
COMMITTEE ON AGRICULTURE,
SUBCOMMITTEE No. 1,
Washington, D. C.

The subcommittee met at 10 a. m., Hon. August H. Andresen (chairman) presiding.

Mr. ANDRESEN. The committee will come to order. The purpose of this hearing is to consider H. R. 1237, a bill to regulate the marketing of economic poisons and devices, and for other purposes. (H. R. 1237 is as follows:)

[H. R. 1237, 80th Cong., 1st sess.]

A BILL To regulate the marketing of economic poisons and devices, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE

SECTION 1. This Act may be cited as the "Federal Insecticide, Fungicide, and Rodenticide Act".

DEFINITIONS

SEC. 2. For the purposes of this Act—

a. The term "economic poison" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects, rodents, fungi, weeds, and other forms of plant or animal life or viruses, except viruses on or in living man or other animals, which the Secretary shall declare to be a pest.

b. The term "device" means any instrument or contrivance intended for trapping, destroying, repelling, or mitigating insects or rodents or destroying, repelling, or mitigating fungi or weeds, or such other pests as may be designated by the Secretary, but not including equipment used for the application of economic poisons when sold separately therefrom.

c. The term "insecticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects which may be present in any environment whatsoever.

d. The term "fungicide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any fungi.

e. The term "rodenticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating rodents or any other vertebrate animal which the Secretary shall declare to be a pest.

f. The term "herbicide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any weed.

g. The term "weed" means any plant which grows where not wanted.

h. The term "insect" means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class insecta, comprising six-legged, usually winged forms, as, for example, beetles, bugs, bees, flies, and to other allied classes of arthropods whose members are wingless and usually have more than six legs, as, for example, spiders, mites, ticks, centipedes, and wood lice.

i. The term "fungi" means all non-chlorophyll-bearing thallophytes (that is, all non-chlorophyll-bearing plants of a lower order than mosses and liverworts) as, for example, rusts, smuts, mildews, molds, yeasts, and bacteria, except those on or in living man or other animals.

j. The term "ingredient statement" means either—

(1) a statement of the name and percentage of each active ingredient, together with the total percentage of the inert ingredients, in the economic poison; or

(2) a statement of the name of each active ingredient, together with the name of each and total percentage of the inert ingredients, if any there be, in the economic poison (except option 1 shall apply if the preparation is highly toxic to man, determined as provided in section 6 of this Act); and, in addition to (1) or (2) in case the economic poison contains arsenic in any form, a statement of the percentages of total and water soluble arsenic, each calculated as elemental arsenic.

k. The term "active ingredient" means an ingredient which will prevent, destroy, repel, or mitigate insects, fungi, rodents, weeds or other pests.

l. The term "inert ingredient" means an ingredient which is not active.

m. The term "antidote" means a practical immediate treatment in case of poisoning and includes first-aid treatment.

n. The term "person" means any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not.

o. The term "Territory" means any Territory or possession of the United States, excluding the Canal Zone.

p. The term "Secretary" means the Secretary of Agriculture.

q. The term "registrant" means the person registering any economic poison pursuant to the provisions of this Act.

r. The term "label" means the written, printed, or graphic matter on, or attached to, the economic poison or device or the immediate container thereof, and the outside container or wrapper of the retail package, if any there be, of the economic poison or device.

s. The term "labeling" means all labels and other written, printed, or graphic matter—

(1) upon the economic poison or device or any of its containers or wrappers;

(2) accompanying the economic poison or device at any time;

(3) to which reference is made on the label or in literature accompanying the economic poison or device, except to current official publications of the United States Departments of Agriculture and Interior, the United States Public Health Service, State experiment stations, State agricultural colleges, and other similar Federal or State institutions or agencies authorized by law to conduct research in the field of economic poisons;

t. The term "adulterated" shall apply to any economic poison if its strength or purity falls below the professed standard or quality as expressed on its labeling or under which it is sold, or if any substance has been substituted wholly or in part for the article, or if any valuable constituent of the article has been wholly or in part abstracted.

u. The term "misbranded" shall apply—

(1) to any economic poison or device if its labeling bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular;

(2) to any economic poison—

(a) if it is an imitation of or is offered for sale under the name of another economic poison;

(b) if its labeling bears any reference to registration under this Act;

(c) if the labeling accompanying it does not contain instructions for use which are necessary and if complied with adequate for the protection of the public;

(d) if the label does not contain a warning or caution statement which may be necessary and if complied with adequate to prevent injury to living man and other vertebrate animals, vegetation, and useful invertebrate animals;

(e) if the label does not bear an ingredient statement on that part of the immediate container and on the outside container or wrapper, if there be one, through which the ingredient statement on the immediate container cannot be clearly read, of the retail package which is presented or displayed under customary conditions of purchase;

(f) if any word, statement, or other information required by or under authority of this Act to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or graphic matter in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; or

(g) if in the case of an insecticide, fungicide, or herbicide when used as directed or in accordance with commonly recognized practice it shall be injurious to living man or other vertebrate animals, or vegetation, except weeds, to which it is applied, or to the person applying such economic poison.

PROHIBITED ACTS

SEC. 3. (a) It shall be unlawful for any person to distribute, sell, or offer for sale in any Territory or in the District of Columbia, or to ship or deliver for shipment from any State, Territory, or the District of Columbia to any other State, Territory, or the District of Columbia, or to any foreign country, or to receive in any State, Territory, or the District of Columbia from any other State, Territory, or the District of Columbia, or foreign country, and having so received, deliver or offer to deliver to any other person any of the following:

(1) Any economic poison which has not been registered pursuant to the provisions of section 4 of this Act, or any economic poison if any of the claims made for it or any of the directions for its use differ in substance from the representations made in connection with its registration, or if the composition of an economic poison differs from its composition as represented in connection with its registration: *Provided*, That in the discretion of the Secretary, a change in the labeling or formula of an economic poison may be made within a registration period without requiring reregistration of the product.

(2) Any economic poison unless it is in the registrant's or the manufacturer's unbroken immediate container, and there is affixed to such container, and to the outside container or wrapper of the retail package, if there be one through which the required information on the immediate container cannot be clearly read, a label bearing—

(a) the name and address of the manufacturer, registrant, or person for whom manufactured;

(b) the name, brand, or trade-mark under which said article is sold; and

(c) the net weight or measure of the content: *Provided*, That the Secretary may permit reasonable variations.

(3) Any economic poison which contains any substance or substances in quantities highly toxic to man, determined as provided in section 6 of this Act, unless the label shall bear, in addition to any other matter required by this Act—

(a) the skull and crossbones;

(b) the word "poison" prominently (IN RED) on a background of distinctly contrasting color; and

(c) a statement of an antidote for the economic poison.

(4) The economic poisons commonly known as a standard lead arsenate, basic lead arsenate, calcium arsenate, magnesium arsenate, zinc arsenate, zinc arsenite, sodium fluoride, sodium fluosilicate, and barium fluosilicate unless they have been distinctly colored or discolored as provided by regulations issued in accordance with this Act, or any other white powder economic poison which the Secretary, after investigation of and after public hearing on the necessity for such action for the protection of the public health and the feasibility of such coloration or discoloration, shall, by regulation, require to be distinctly colored or discolored, unless it has been so colored or discolored: *Provided*, That the Secretary may exempt any economic poison to the extent that it is intended for a particular use or uses from the coloring or discoloring required or authorized by this section if he determines that such coloring or discoloring for such use or uses is not necessary for the protection of the public health.

(5) Any economic poison which is adulterated or misbranded or any device which is misbranded.

b. Notwithstanding any other provision of this Act, no article shall be deemed in violation of this Act when intended solely for export to any foreign country and prepared or packed according to the specifications or directions of the foreign purchaser.

c. It shall be unlawful—

(1) for any person to detach, alter, deface, or destroy, in whole or in part, any label or labeling provided for in this Act or the rules and regulations

promulgated hereunder, or to add any substance to, or take any substance from, an economic poison in a manner that may defeat the purpose of this Act;

(2) for any manufacturer, distributor, dealer, carrier, or other person to refuse, upon a request in writing specifying the nature or kind of economic poison or device to which such request relates, to furnish to or permit any person designated by the Secretary to have access to and to copy such records as authorized by section 5 of this Act;

(3) for any person to give a guaranty or undertaking provided for in section 7 which is false in any particular, except that a person who receives and relies upon a guaranty authorized under section 7 may give a guaranty to the same effect, which guaranty shall contain in addition to his own name and address the name and address of the person residing in the United States from whom he received the guaranty or undertaking; and

(4) for any person to use for his own advantage or to reveal, other than to the Secretary, or officials or employes of the United States Department of Agriculture, or other Federal agencies, or to the courts in response to a subpoena, or to physicians, and in emergencies to pharmacists and other qualified persons, for use in the preparation of antidotes, in accordance with such directions as the Secretary may prescribe, any information relative to formulas of products acquired by authority of section 4 of this Act.

REGISTRATION

SEC. 4. a. Every economic poison which is distributed, sold, or offered for sale in any Territory or the District of Columbia, or which is shipped or delivered for shipment from any State, Territory, or the District of Columbia to any other State, Territory, or the District of Columbia, or which is received from any foreign country shall be registered with the Secretary: *Provided*, That products which have the same formula, are manufactured by the same person, the labeling of which contains the same claims, and the labels of which bear a designation identifying the product as the same economic poison may be registered as a single economic poison; and additional names and labels shall be added by supplement statements; the registrant shall file with the Secretary a statement including—

(1) the name and address of the registrant and the name and address of the person whose name will appear on the label, if other than the registrant;

(2) the name of the economic poison;

(3) a complete copy of the labeling accompanying the economic poison and a statement of all claims to be made for it, including the directions for use; and

(4) if requested by the Secretary, a full description of the tests made and the results thereof upon which the claims are based.

b. The Secretary, whenever he deems it necessary for the effective administration of this Act, may require the submission of the complete formula of the economic poison. If it appears to the Secretary that the composition of the article is such as to warrant the proposed claims for it and if the article and its labeling and other material required to be submitted comply with the requirements of section 3 of this Act, he shall register it.

c. If it does not appear to the Secretary that the article is such as to warrant the proposed claims for it or if the article and its labeling and other material required to be submitted do not comply with the provisions of this Act, he shall notify the registrant of the manner in which the article, labeling, or other material required to be submitted fail to comply with the Act so as to afford the registrant an opportunity to make the corrections necessary. If, upon receipt of such notice, the registrant insists that such corrections are not necessary and requests in writing that it be registered, the Secretary shall register the article, under protest, and such registration shall be accompanied by a warning, in writing, to the registrant of the apparent failure of the article to comply with the provisions of this Act. In order to protect the public, the Secretary, on his own motion, may at any time, cancel the registration of an economic poison and in lieu thereof issue a registration under protest in accordance with the foregoing procedure. In no event shall registration of an article, whether or not protested, be construed as a defense for the commission of any offense prohibited under section 3 of this Act.

d. Notwithstanding any other provision of this Act, registration is not required in the case of an economic poison shipped from one plant to another plant operated by the same person and used solely at such plant as a constituent part to make an economic poison which is registered under this Act.

BOOKS AND RECORDS

SEC. 5. For the purposes of enforcing the provisions of this Act, any manufacturer, distributor, carrier, dealer, or any other person who sells or offers for sale, delivers or offers for delivery, or who receives or holds any economic poison or device subject to this Act, shall, upon request of any employec of the United States Department of Agriculture or any employee of any State, Territory, or political subdivision, duly designated by the Secretary, furnish or permit such person at all reasonable times to have access to, and to copy all records showing the delivery, movement, or holding of such economic poison or device, including the quantity, the date of shipment and receipt, and the name of the consignor and consignee; and in the event of the inability of any person to produce records containing such information, all other records and information relating to such delivery, movement, or holding of the economic poison or device. Notwithstanding this provision, however, the specific evidence obtained under this section shall not be used in a criminal prosecution of the person from whom obtained.

ENFORCEMENT

SEC. 6. a. The Secretary (except as otherwise provided in this section) is authorized to make rules and regulations for carrying out the provisions of this Act, including the collection and examination of samples of economic poisons and devices subject to this Act. The Secretary is, in addition, authorized after opportunity for hearing—

(1) to declare a pest any form of plant or animal life or virus which is injurious to plants, man, domestic animals, articles, or substances;

(2) to determine economic poisons, and quantities of substances contained in economic poisons, which are highly toxic to man; and

(3) to determine standards of coloring or discoloring for economic poisons, and to subject economic poisons to the requirements of section 3a (4) of this Act.

b. The Secretary of the Treasury and the Secretary of Agriculture shall jointly prescribe regulations for the enforcement of section 10 of this Act.

c. The examination of economic poisons or devices shall be made in the United States Department of Agriculture or elsewhere as the Secretary may designate for the purpose of determining from such examination whether they comply with the requirements of this Act, and if it shall appear from any such examination that they fail to comply with the requirements of this Act, the Secretary shall cause notice to be given to the person against whom criminal proceedings are contemplated. Any person so notified shall be given an opportunity to present his views, either orally or in writing, with regard to such contemplated proceedings, and if in the opinion of the Secretary it appears that the provisions of this Act have been violated by such person, then the Secretary shall certify the facts to the proper United States attorney, with a copy of the results of the analysis or the examination of such article: *Provided*, That nothing in this Act shall be construed as requiring the Secretary to report for prosecution or for the institution of libel proceedings minor violations of this Act whenever he believes that the public interest will be adequately served by a suitable written notice of warning.

d. It shall be the duty of each United States attorney, to whom the Secretary or his agents shall report any violation of this Act, to cause appropriate proceedings to be commenced and prosecute in the proper courts of the United States without delay.

e. The Secretary shall, by publication in such manner as he may prescribe, give notice of all judgments entered in actions instituted under the authority of this Act.

EXEMPTIONS

SEC. 7. a. The penalties provided for a violation of section 3a of this Act shall not apply to—

(1) any person who establishes a guaranty signed by, and containing the name and address of, the registrant or person residing in the United States from whom he purchased and received in good faith the article in the same unbroken package, to the effect that the article was lawfully registered at the time of sale and delivery to him, and that it complies with the other requirements of this Act, designating this Act. In such case the guarantor shall be subject to the penalties which would otherwise attach to the person holding the guaranty under the provisions of this Act;

(2) any carrier while lawfully engaged in transporting an economic poison or device if such carrier upon request by a person duly designated by the Secretary shall permit such person to copy all records showing the transactions in and movement of the articles;

(3) to public officials while engaged in the performance of their official duties;

(4) to the manufacturer or shipper of an economic poison for experimental use only by or under the supervision of any Federal or State agency authorized by law to conduct research in the field of economic poisons; or by others if a permit has been obtained before shipment in accordance with regulations promulgated by the Secretary.

PENALTIES

SEC. 8. a. Any person violating section 3a (1) of this Act shall be guilty of a misdemeanor and shall on conviction be fined not more than \$1,000.

b. Any person violating any provision other than section 3a (1) of this Act shall be guilty of a misdemeanor and shall upon conviction be fined not more than \$500 for the first offense, and on conviction of each subsequent offense be fined not more than \$1,000: *Provided*, That an offense committed more than five years after the last previous conviction shall be considered a first offense: *And provided further*, That in any case where a registrant was issued a warning by the Secretary pursuant to the provisions of section 4c of this Act, he shall in each instance upon conviction for an offense concerning which he had been so warned, be fined not more than \$1,000 or imprisoned for not more than one year, or both such fine and imprisonment; and the registration of the article with reference to which the violation occurred shall terminate automatically. An article the registration of which has been terminated may not again be registered unless the article, its labeling, and other material required to be submitted appear to the Secretary to comply with all the requirements of this Act.

c. Notwithstanding any other provision of this section, in case any person, with intent to defraud, uses or reveals information relative to formulas of products acquired under the authority of section 4 of this Act, he shall be fined not more than \$10,000 or imprisoned for not more than three years, or both such fine and imprisonment.

d. When construing and enforcing the provisions of this Act, the act, omission, or failure, of any officer, agent, or other person acting for or employed by any person shall in every case be also deemed to be the act, omission, or failure of such person as well as that of the person employed.

SEIZURES

SEC. 9. a. Any economic poison or device that is being transported from one State, Territory, or District to another, or, having been transported, remains unsold or in original unbroken packages, or that is sold or offered for sale in the District of Columbia or any Territory, or that is imported from a foreign country, shall be liable to be proceeded against in any district court of the United States in the district where it is found and seized for confiscation by a process of libel for condemnation—

(1) in the case of an economic poison—

(a) if it is adulterated or misbranded;

(b) if it has not been registered pursuant to the provisions of section 4 of this Act;

(c) if it fails to bear on its label the information required by this Act; or

(d) if it is a white powder economic poison and is not colored as required under this Act; or

(2) in the case of a device if it is misbranded.

b. If the article is condemned it shall, after entry of the decree, be disposed of by destruction or sale as the court may direct and the proceeds, if sold, less the legal costs, shall be paid into the Treasury of the United States, but the article shall not be sold contrary to the provisions of this Act or of the laws of the jurisdiction in which it is sold: *Provided*, That upon the payment of the costs of the libel proceedings and the execution and delivery of a good and sufficient bond conditioned that the article shall not be sold or otherwise disposed of contrary to the provisions of this Act or the laws of any State, Territory, or District in which sold, the court may direct that such articles be delivered to the owner thereof.

The proceedings of such libel cases shall conform, as near as may be, to the proceedings in admiralty, except that either party may demand trial by jury of any issue of fact joined in any case, and all such proceedings shall be at the suit of and in the name of the United States.

c. When a decree of condemnation is entered against the article, court costs and fees, storage, and other proper expenses shall be awarded against the person, if any, intervening as claimant of the article.

IMPORTS

SEC. 10. The Secretary of the Treasury shall notify the Secretary of Agriculture of the arrival of economic poisons and devices offered for importation and shall deliver to the Secretary of Agriculture, upon his request, samples of economic poisons or devices which are being imported or offered for import into the United States, giving notice to the owner or consignee, who may appear before the Secretary of Agriculture and have the right to introduce testimony. If it appears from the examination of a sample that it is adulterated or misbranded or otherwise violates the prohibitions set forth in this Act, or is otherwise dangerous to the health of the people of the United States, or is of a kind forbidden entry into or forbidden to be sold or restricted in sale in the country in which it is made or from which it is exported, the said article may be refused admission, and the Secretary of the Treasury shall refuse delivery to the consignee and shall cause the destruction of any goods refused delivery which shall not be exported by the consignee within three months from the date of notice of such refusal under such regulations as the Secretary of the Treasury may prescribe; *Provided*, That the Secretary of the Treasury may deliver to the consignee such goods pending examination and decision in the matter on execution of a penal bond for the amount of the full invoice value of such goods, together with the duty thereon, and on refusal to return such goods for any cause to the custody of the Secretary of the Treasury, when demanded, for the purpose of excluding them from the country, or for any other purpose, said consignee shall forfeit the full amount of the bond: *And provided further*, That all charges for storage, cartage, and labor on goods which are refused admission or delivery shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against any future importation made by such owner or consignee.

DELEGATION OF DUTIES

SEC. 11. All authority vested in the Secretary by virtue of the provisions of this Act may with like force and effect be executed by such employees of the United States Department of Agriculture as the Secretary may designate for the purpose.

AUTHORIZATION FOR APPROPRIATIONS AND EXPENDITURES

SEC. 12. a. There is hereby authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary for the purposes and administration of this Act. In order to carry out the provisions of this Act, which take effect prior to the repeal of the Insecticide Act of 1910, appropriations available for the enforcement of such Act are authorized to be made available.

b. The Secretary is authorized from the funds appropriated for this Act to make such expenditures as he deems necessary, including rents, travel, supplies, books, samples, testing devices, furniture, equipment, and such other expenses as may be necessary to the administration of this Act.

COOPERATION

SEC. 13. The Secretary is authorized to cooperate with any other department or agency of the Federal Government and with the official regulatory agency of any State, or any State, Territory, District, possession, or any political subdivision thereof, in carrying out the provisions of this Act, and in securing uniformity of regulations.

SEPARABILITY

SEC. 14. If any provision of this Act is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of this Act and the applicability thereof to other persons and circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 15. All provisions of this Act, except section 3, "Prohibited Acts"; section 8, "Penalties"; section 9, "Seizures"; and section 10, "Imports", shall take effect upon enactment, and sections 3, 8, 9, and 10 of this Act shall take effect as follows: (1) As to devices, upon enactment; (2) as to rodenticides and herbicides, six months after enactment; and (3) as to insecticides, fungicides, and all other economic poisons, one year after enactment: *Provided*, That the Secretary, upon application, may at any time within one year after sections 3, 8, 9, and 10 of this Act become applicable to devices, rodenticides and herbicides, and insecticides, fungicides, and other economic poisons, respectively, if he determines that such action will not be unduly detrimental to the public interest, and is necessary to avoid hardship, exempt, under such terms and conditions as he may prescribe, any economic poison from the provisions of this Act if such economic poison was labeled, shipped, and delivered by the manufacturer thereof prior to the time the sections of this Act referred to above become applicable to such economic poison and in case the economic poison is an insecticide or fungicide if its sale, delivery, or shipment has not been and will not be in violation of the provisions of the Insecticide Act of 1910.

REPEALS

SEC. 16. The Insecticide Act of 1910, approved April 26, 1910 (36 Stat. 331, 7. U. S. C. 121-134), is hereby repealed one year after the date of the enactment of this Act: *Provided*, That, with respect to violations, liabilities incurred, or appeals taken prior to said date, and with respect to sales, shipments, or deliveries of insecticides and fungicides under an exemption granted by the Secretary under section 15, all provisions of the Insecticide Act of 1910 shall be deemed to remain in full force for the purpose of sustaining any proper suit, action, or other proceeding with respect to any such violations, liabilities, appeals, or to such sales, shipments, or deliveries of insecticides and fungicides exempted by the Secretary under section 15.

Mr. ANDRESEN. Extensive hearings were held on similar legislation in the Seventy-ninth Congress and in view of the fact that the industry and distributors, and others; are in pretty much accord on this legislation, this hearing will be comparatively brief, in order to hear the views of those witnesses who have indicated that they wanted to be heard, and to receive suggestions for the record on this bill.

Several persons have filed statements with the chairman of the committee with reference to the bill and these statements will be placed in the record. If there is someone present who wants to file a statement on the bill and who does not care to testify we will be glad to receive such a statement.

The first witness that we will hear will be Mr. Harry E. Reed of the Department of Agriculture, who, with his associates, will give his views on this bill. Mr. Reed.

STATEMENT OF HARRY E. REED, DIRECTOR, LIVESTOCK BRANCH, PMA, UNITED STATES DEPARTMENT OF AGRICULTURE (ACCOMPANIED BY DR. W. G. REED, CHIEF, INSECTICIDE DIVISION, LIVESTOCK BRANCH, UNITED STATES DEPARTMENT OF AGRICULTURE; AND DR. E. L. GRIFFIN, ASSISTANT CHIEF, INSECTICIDE DIVISION, LIVESTOCK BRANCH, UNITED STATES DEPARTMENT OF AGRICULTURE)

Mr. REED. Mr. Chairman, the Department has filed a report on the bill with the committee. I have little to add to that report. We feel that this legislation is necessary in order to give protection in

the modern day insecticide field. We have made a number of suggestions for minor changes in the bill. We urge that this bill be adopted.

Dr. Reed, who is Chief of the Insecticide Division, and Dr. Griffin, who is Assistant Chief of the Insecticide Division, are with me to answer any questions in a technical way.

I have nothing to add to the report, Mr. Chairman, but we will be glad to answer any questions.

Mr. ANDRESEN. I note that the Department has made six suggestions with reference to changes in the bill. I think it might be well for you to explain each suggestion. I will call your attention to the first one.

On page 2, line 6, omit the words "or weeds".

Mr. REED. Yes, sir. We feel that the words "or weeds" should be omitted because it would complicate matters by bringing hoes, scythes, and such devices that are used for chopping out weeds, under the act, which is unnecessary. We think it would be simplified by omitting the words "or weeds".

Mr. ANDRESEN. That was the only purpose of that suggestion; is that correct?

Mr. REED. That is right.

Mr. ANDRESEN. Now, the second suggestion appears on page 5, section 2 (a)——

Mr. REED. The addition of the words ——

Mr. ANDRESEN. That is 2 (s), isn't it?

Mr. REED. Yes, sir. The addition of the words "or which contains directions for use" would bring under the act advertising matter in which directions as to how to use the product were given. We think that would be an added protection. It is my understanding that there is some opposition to the addition of those words.

Mr. ANDRESEN. That is in the advertisements appearing for the sale of the product?

Mr. REED. That is correct.

Mr. ANDRESEN. And you feel that it would be an additional protection to the public if information was contained in the advertisement showing how it could be used?

Mr. REED. Our only feeling is that that information should be correct. As it is, advertising matter containing directions for use would not be subject to the act.

Mr. ANDRESEN. Is it your feeling that the need for this information in the advertisement is so that the directions will be followed or so that the people will know what they have to do before they buy the commodity?

Mr. REED. May I ask Dr. Griffin to reply to that question?

Mr. GRIFFIN. This is not a requirement that the directions for use shall be put in the advertisement. It is a requirement that if advertisements are put out containing directions for use then such advertisements will be subject to the act.

Mr. ANDRESEN. This has nothing to do with the formula?

Mr. REED. No, sir.

Mr. ANDRESEN. Does the Department suggest that the formula be contained in the advertisement?

Mr. REED. No, sir.

Mr. ANDRESEN. Or on the label?

Mr. GRIFFIN. There is a requirement for an ingredient statement on the label to which I understand industry does not object.

Mr. ANDRESEN. That formula, then, does not have to be specific?

Mr. GRIFFIN. That is right.

Mr. ANDRESEN. All they have to put in is the ingredients without stating the amount of each type of material?

Mr. GRIFFIN. That is one alternative that is permissible.

Mr. REED. That is on the label. That has nothing to do with this point.

Mr. ANDRESEN. Yes. Now, point No. 3, on page 8, section 3 (a).

Mr. REED. The suggestion we have made there is that the words "in the original unbroken package" be added. We think that is necessary in order to make that part of the act workable.

Mr. GRIFFIN. The act as it stands at present would deny a person who received an insecticide in interstate commerce the privilege of breaking it up and selling it in smaller packages. He couldn't repack it or distribute it. He could only sell it in the registrant's package as it came. The Solicitor's office informs us that they believe it would be going beyond the constitutional authority if we denied them that right. They believe that after a man has received the insecticide in interstate commerce he has a right to go ahead and repack it.

Mr. ANDRESEN. That would come under, primarily, at least, under the jurisdiction of the State authorities, too, after it has been received in interstate commerce?

Mr. GRIFFIN. It should, yes.

Mr. ANDRESEN. So that the Federal Government would not necessarily have any jurisdiction over it after it reached its destination.

Mr. GRIFFIN. Not after it has been repacked.

Mr. ANDRESEN. Page 9, line 16, the word "a" preceding the word "standard" should be deleted.

Mr. REED. Yes, sir. We feel that that was a typographical error.

Mr. ANDRESEN. I don't think there is any question about that.

I wish you would explain the fifth objection, on page 12, section 4.

Mr. REED. Mr. Chairman, our position relative to the fee is that it is a matter of legislative policy. We feel that the imposition of a fee, from the standpoint of administration of the act, would be of assistance in preventing a lot of unnecessary registrations. Now, as to whether a fee is imposed from the standpoint of providing funds for the administration of the act, our position is that is a matter of legislative policy.

Mr. ANDRESEN. All you do then is to raise the point about the fee?

Mr. REED. Yes, sir.

Mr. ANDRESEN. I see.

Mr. REED. In raising the point, we did so recognizing that on several occasions in connection with appropriations for other regulatory action, the Appropriations Committees have asked about the possibility of financing them from the collection of fees. On one occasion we were asked to draw up some language which would provide fees—on another act. We are merely raising the question as to whether it is the wish of Congress to handle this through fee, or partially through fee, I should say, because the fees large enough to cover the administration of this act would be very high.

Mr. ANDRESEN. Under the bill that was considered by the committee last year, where it provided a fee, did the Department make any estimate as to the amount that would be collected?

Mr. REED. I believe, Mr. Chairman, that the estimates were that thirty-odd-thousand dollars would have been collected under the fee that was suggested last year.

Mr. ANDRESEN. In connection with the fee, I would like to have you discuss the estimated additional cost for administering this act.

Mr. REED. Out estimate, Mr. Chairman, is that this act would require an amount of \$285,000 in addition to the amount now appropriated for administration of the Insecticide Act of 1910.

Mr. ANDRESEN. How much is the amount for the whole act?

Mr. REED. \$294,000 is now being appropriated for the Insecticide act of 1910.

Mr. ANDRESEN. Is it the idea of the Department that this act will double the work of the Department?

Mr. REED. Practically, yes, sir. This act brings under the administration several additional items, you recall. Rodenticides, herbicides, and devices.

Mr. ANDRESEN. Do you have a break-down of the estimate to show how the money will be spent?

Mr. REED. Yes, sir. Mr. Chairman, if you will permit me, I would be glad to file with you a break-down showing how this amount was arrived at, for Washington, for our laboratories, and for the field force. In this we show a report on the money with an explanatory comment on each one.

Mr. ANDRESEN. Do you have additional copies?

Mr. REED. Yes, sir.

Mr. ANDRESEN. If you will file one with the reporter, he will put it in the record at this point, and also furnish the committee with copies of it, as we might want to interrogate you on it.

Mr. REED. All right.

(The document above referred to is as follows:)

UNITED STATES DEPARTMENT OF AGRICULTURE, PRODUCTION AND MARKETING
ADMINISTRATION, LIVESTOCK BRANCH, WASHINGTON, D. C.

PROPOSED ENFORCEMENT PLAN FOR H. R. 1237

The enforcement of the proposed Federal Insecticide, Fungicide, and Rodenticide Act (H. R. 1237) would place a number of added responsibilities upon the Department, as follows:

1. Control of herbicides, rodenticides, and devices intended for the control of economic pests.

2. The determination of substances in economic poisons which are highly toxic to man and should bear special poison labeling.

3. The registration of economic poisons, which will require examination of each label and all literature accompanying the article, to see whether it complies with legal requirements.

4. Determining whether the directions for use accompanying each economic poison are adequate.

5. Determining whether the warning statements on the label are sufficient to prevent injury to man, other vertebrate animals, vegetation, and useful invertebrate animals.

6. Determining which white economic poisons should be colored so as to avoid danger of accidental poisoning of humans, and determining coloration which may be used for this purpose without decreasing the effectiveness of the product or injury to plants.

7. Cooperation with State officials so as to bring about uniformity of action under Federal and State laws covering this field.

In the enforcement activities, no basic research is contemplated. It will, however, be necessary to make sufficient investigations to determine the effectiveness of herbicides, rodenticides, and devices intended for the control of economic

pests; to determine the toxicity of substances used in economic poisons and what dangers may be inherent in their use; to determine the necessity of and standard for coloring economic poisons; and to determine adequate directions for use of economic poisons.

It is proposed to set up a registration unit in Washington and to maintain here chiefs of sections and sufficient scientific personnel to pass on labeling offered for registration and to aid manufacturers by advising them as to the legality of their products. At Beltsville there would be a new laboratory to work on the toxicity of economic poisons and on the effectiveness of rodenticides, as well as added scientific personnel and their assistants to take care of testing weed killers and other responsibilities in the enforcement of the act. In the field, the inspection work would be strengthened to take care of the added products to be controlled and there would be an additional entomologist to do testing where we are not in position to do it at present, as well as additional chemists in our present field stations.

A break-down showing the additional cost of enforcing the act is shown on the following page.

Proposed additional cost of enforcing new Insecticide Act

Objective classifications		Estimated obligations for first year	Estimated obligations for second year
WASHINGTON, D. C.			
01	Personal services.....	\$72,000	\$86,000
02	Travel.....	1,500	1,700
03	Transportation of things.....	500	500
04	Communications.....	900	900
05	Rents and utilities.....		
07	Other contractual services.....		
08	Supplies and materials.....	2,200	1,100
09	Equipment.....	5,000	800
	Total.....	82,100	91,000
BELTSVILLE, MD.			
(Includes pharmacology laboratory, bacteriological section, chemical section, entomological laboratory and plant pathological laboratory)			
01	Personal services.....	67,600	118,600
02	Travel.....	2,100	2,100
03	Transportation of things.....	800	800
04	Communication services.....	800	800
05	Rents and utilities.....	5,500	5,500
07	Other contractual services.....	5,500	1,500
08	Supplies and materials.....	9,300	5,200
09	Equipment.....	56,000	3,100
	Total.....	147,600	137,600
FIELD			
(Including investigation force, chemical laboratories, and entomological laboratory)			
01	Personal services.....	23,500	36,600
02	Travel.....	10,100	12,100
03	Transportation of things.....	600	600
04	Communication services.....	400	400
05	Rents and utilities.....	1,600	1,600
07	Other contractual services.....	1,500	500
08	Supplies and materials.....	5,000	2,500
09	Equipment.....	12,600	2,100
	Total.....	55,300	56,400
	Grand total.....	285,000	285,000

It is estimated that approximately \$80,000 will be necessary for equipping the laboratories and offices. However, some of the technical personnel will not be employed until after the laboratories are established and it will be impossible to obtain all qualified personnel immediately. Therefore, the \$80,000 necessary for equipping the laboratories could be obtained through lapsed salaries during the first year and no additional appropriation for this purpose would be necessary.

Mr. ANDRESEN. Will you refer to the statement, Mr. Reed, and tell the committee as to the additional personnel that will be needed to enforce this act?

Mr. REED. Yes, sir. Dr. Griffin.

Mr. GRIFFIN. In the enforcement of the act it will be necessary to maintain a registration service in Washington to register each label, each article as it is put in for registration. The label and the advertising material will have to be looked over by experts in the particular fields to make sure that the product will do what it is claimed to do. And to do that work it will require \$91,000 in personnel and services in Washington. The new act requires that—the new bill requires that there shall be considerable care given to the possibility of damage to individuals, to people using it, or to animals. That was not in the Insecticide Act of 1910. And it requires a certain amount of laboratory work to determine the dangers inherent in the use of these products. We will have to set up a laboratory to test rodenticides. There will also have to be set up laboratories to test weed killers, to determine their effectiveness and to determine the dangers in their use—and there are dangers in their use. Then in addition to that there will be additional work on the coloring of insecticides. That work will largely be done in laboratories at Beltsville, which will cost approximately \$137,000 a year.

Mr. ANDRESEN. You have laboratories there now?

Mr. REED. They are not equipped for this work, Mr. Chairman.

Mr. GRIFFIN. We have no laboratories which do toxicity work. We have no laboratories that work on weed killers.

Mr. ANDRESEN. Does any other agency of the Government?

Mr. GRIFFIN. There is none that we know of that would be in position to do that sort of work.

Mr. ANDRESEN. Who have been making all these tests with DDT?

Mr. GRIFFIN. We have laboratories to do that sort of work; yes.

Mr. ANDRESEN. Were those especially provided for by law, to examine the qualities of DDT?

Mr. GRIFFIN. Yes.

Mr. REED. They come under the old act, Mr. Chairman.

Mr. ANDRESEN. I thought that was such a recent discovery—and the old act was created a good many years ago.

Mr. REED. It was broad enough to take that.

Mr. ANDRESEN. You don't feel that the present law is broad enough to extend your laboratory facilities without an additional \$137,000 being required?

Mr. REED. Not for the purposes in this new bill.

Mr. ANDRESEN. Now, what other expense?

Mr. GRIFFIN. In addition to that there is the field investigational work which is going to require additional investigational work, and it will require some additional field laboratories. Weed killers, particularly, can only be tested where the particular weeds they are intended for exist. We have no laboratories now in certain parts of the country that should be covered. We have none at all in the middle part of the country. We have a plant pathology laboratory at Corvallis, Oreg., and one at Haddon Heights, N. J. We have an insecticide laboratory in Florida, and one in Texas. But we have none

in the middle part of the country, where we should be able to do some testing work.

The total cost of the field investigational and testing work which we deem necessary is \$56,400.

Mr. REED. Mr. Chairman, may I add to what Dr. Griffin has said that this new bill would bring the producer of these products under certain regulation he is not now under and we, as the regulatory agency, I feel would have the responsibility of giving him quick action. Otherwise he would be greatly handicapped in merchandising his product.

Mr. ANDRESEN. Have you made any estimate as to the number of registrations?

Mr. REED. Yes, sir. Approximately 25,000.

Mr. ANDRESEN. That would be the total number of registrations of products already in existence?

Mr. REED. That is right.

Mr. ANDRESEN. Of course, the bill calls for one registration.

Mr. REED. Yes, sir.

Mr. ANDRESEN. Do you think that any requirement should be placed in the bill so that after an interval of time there should be a reregistration?

Mr. REED. Yes, for this reason: If there were not such a requirement one registration would last indefinitely, and as these products are outmoded new products come on our books, and we would be carrying alive a lot of earlier registrations. If annual registration is a hardship for persons registering a product—I can understand that—we could live with reregistration, say, every 5 years. The question has been raised, Could the problem of keeping our lists alive be handled through regulation? We are inclined to feel that if a law says that one registration is sufficient for an indefinite period we would not have authority through regulation to call for reregistration each 5 years, or what other period is desirable.

Mr. ANDRESEN. In order to protect the public, Mr. Reed, it is your opinion that if a reregistration would be required every fifth year that would give the public full protection?

Mr. REED. Oh, yes. We could live with that. Our principal object is to have a live list. Not a list that is full of outmoded products no longer being made, and that sort of thing.

Mr. ANDRESEN. We will get down to item 6.

Mr. REED. In item 6, we have suggested that the words "or imprisoned for not more than 1 year, or both such fine and imprisonment," should be added in the penalty clause. Our reason for that is that such language is contained in the Insecticide Act of 1910, and we feel that it is necessary in handling second violations. Objection has been raised to this suggestion on the ground that if such a penalty should apply where a registration had been overlooked through a clerical error, such a penalty would be harsh, and I would agree that such a penalty would be harsh where the offense came as the result of a clerical oversight or error. We would be content with that language applying to second offenses for violation of the act.

Mr. ANDRESEN. Would that be simply for willful violations?

Mr. REED. No, sir, not willful violation.

Mr. GRIFFIN. There is no provision in the act which refers to willful violation. It would apply, if it was put in line 23, to second offense

violations. And, of course, the court has the authority to impose imprisonment or not, as the court sees fit.

Mr. ANDRESEN. Now, I am sure that the members of the committee recognize that this is a technical bill, and we are not technicians of this kind, and I was wondering, Mr. Reed, if either of your associates have anything to add as to the need for this kind of legislation.

Mr. GRIFFIN. The insecticide, fungicide, and rodenticide business has changed very markedly since 1910. It is now a highly scientific business. The products coming on the market are new and unknown products in a good many cases, and in our opinion they need a lot more careful supervision than is possible under the present act. We believe that this act should be brought up to date, and we believe that this is a good act.

Mr. ANDRESEN. Would the passage of this act be in line with what is being done in the several States of the Union?

Mr. GRIFFIN. Entirely. There has been prepared by the Council of State Governments a proposed uniform State bill. That has already passed, I think, four or five State legislatures. It is pending in certain others, and has been accepted by the Council of State Governments. This act is entirely parallel to the State acts, and I believe that it would be of assistance to the industry to have uniformity of regulation between State and Federal Government, and to have the cooperation which is provided by this bill in the law enforcement.

Mr. ANDRESEN. Would the passage of this act eliminate the necessity for States to set up or pass State laws and create agencies to enforce similar laws within the State?

Mr. REED. No, sir.

Mr. ANDRESEN. Would not?

Mr. REED. No, sir. But it would make cooperation possible in a way that would avoid a great deal of duplication. It would only be the State agency that would have the right to move in on products manufactured in and moving in intrastate commerce. The Federal Act would cover the interstate movement. And with the agency set up under this uniform State law, there would be cooperation, and it would avoid a great deal of what otherwise might be duplication. It would also bring about uniformity in legislation throughout the country covering the regulation of these products and would avoid the necessity of a product coming under one law in one State and another law in another State, requiring different labeling requirements, all of which is very expensive and quite a handicap to the distributors.

Mr. ANDRESEN. There is a lack of uniformity then between the State and Federal laws at the present time which requires manufacturers probably to put up many different kinds of packages of the same commodity before they can sell it within a State?

Mr. GRIFFIN. That is correct.

Mr. ANDRESEN. And the passage of this act, coupled with the uniform laws throughout the States, will eliminate that extra work and expense on the part of manufacturers of these economic poisons.

Mr. REED. That is correct.

Mr. ANDRESEN. Mr. Reed, if you and your associates will remain here for any questions, we will proceed with the other witnesses.

Mr. REED. Thank you, sir.

Mr. ANDRESEN. I will next call Mr. John Conner.

Mr. Conner, if you will, state your name and who you represent.

STATEMENT OF JOHN D. CONNER, GENERAL COUNSEL, NATIONAL ASSOCIATION OF INSECTICIDE AND DISINFECTANT MANUFACTURERS

Mr. CONNER. My name is John Conner. I am general counsel for the National Association of Insecticide and Disinfectant Manufacturers. The address of the association is 110 East Forty-second Street, New York City.

I will read from a prepared statement, Mr. Chairman, in which I will give a little more of the background and the history of the association.

Mr. ANDRESEN. How large is your organization?

Mr. CONNER. We have around 300 members. I do cover that in the first sentence here.

Mr. ANDRESEN. Yes.

Mr. CONNER. The National Association of Insecticide and Disinfectant Manufacturers is a trade association composed of approximately 300 manufacturers of household insecticides, disinfectants, and related sanitary chemicals. This association was organized in 1914 for the purpose of furthering the aims of the Insecticide Act of 1910. It has since that time advocated adequate laws and enforcement facilities in relation to these products.

The members of this association recognize that there is a need for a new Federal law in the field of economic poisons. The products of this industry are continually being improved and the number of such products is increasing. Our association feels that H. R. 1237, as presently drafted, is a well-balanced piece of legislation and will meet all the needs of the enforcement officials, as well as assure maximum protection to the consumer. Frankly, the association does not agree with several parts of this bill, but the bill as a whole has been approved, and no objection to these specific points is being raised so long as the bill remains in its present form.

There is no need to review in detail the provisions of this bill. The majority of its provisions are identical with those of H. R. 4851 and H. R. 5645, introduced by Congressman Flannagan at the last session of Congress. Hearings were held on these two bills last year. For that reason I will only discuss briefly the major differences between the last of those two bills, H. R. 5645, and H. R. 1237.

In section 2 (j), the definition of the term "ingredient statement" has been changed to require a more complete type of ingredient labeling than has been required under the 1910 act, or than would have been required under either H. R. 4851 or 5645. This association approves of this change. This definition of "ingredient statement" will bring the new proposed Federal law into line with the State uniform economic poisons bill which has been adopted by the Council of State Governments. Following the adoption by the council of this proposed bill last November, legislation providing for this same type of ingredient statement has been passed by the States of Montana, North Dakota, South Dakota, Kansas, Arkansas, New York, and Vermont.

I might add that the State of North Carolina is the only exception to this. They have just recently passed a bill providing for a different type or ingredient statement.

Legislation embodying the same ingredient statement is in the process of passage through the legislatures of numerous other States at the present time. This particular provision is one on which uniformity of legislation and regulation between the Federal and State governments is most needed by the industry. For this reason we strongly endorse the new language of this ingredient statement.

The language of section 2 (s) of H. R. 1237 has been changed from that of H. R. 5645 by the deletion from the definition of the term "labeling" of all written, printed, or graphic matter which contains directions for use. This association endorses this change. We objected strongly to the inclusion of the deleted provision in H. R. 5645 because we felt this language was unduly broad and unnecessary. It would admittedly bring under the jurisdiction of the Department of Agriculture any type of advertising or even radio script which was interpreted to include "directions for use."

Let me deviate just a minute to say that the only effect of this deletion is that if it were put back in the bill it would define as labeling any type of written, printed, or graphic material which contained directions for use. In other respects, any type of such material that contains directions for use would still be subject to control by the Federal Trade Commission and under the registration provisions of this act. The only thing that this change accomplished is that it takes that out from under the definition of the term "labeling."

We do not feel that the elimination of this language from H. R. 1237 will in any way result in lack of authority in the Department to adequately police statements containing directions for use. Under the remaining three subparagraphs of the definition of the term "labeling" the Department would have full authority over such statements on what is ordinarily considered labeling; that is, any such statements which appear (1) upon the economic poison or device or any of its containers or wrappers, (2) accompanying the economic poison or device at any time, or (3) to which reference is made on the label or in literature accompanying the economic poison or device. We believe this authority under these remaining three parts of the definition of "labeling" to be fully as broad as that of any existing Federal or State law. In its present form it corresponds with the same provision in the Uniform State Act.

We therefore ask that the bill remain as it is in regard to the definition of the term "labeling."

The registration section of H. R. 1237 is the same as that of H. R. 5645, with the exception that no registration fee is required under the new bill. This association strongly opposed any type of registration in H. R. 4851 and H. R. 5645. This opposition was premised primarily on the ground that it was a new method of exercise of the interstate commerce power by the Federal Government. In addition, the majority of the members of the association were not convinced that registration powers were necessary for effective enforcement of the act. Somewhat reluctantly, the association has partially modified that position by approving one-time Federal registration as incorporated in H. R. 1237 on the basis that there would be no registration fee attached. This modified position has been taken

in the hopes that it will further uniformity, and on the basis of the statement of the officials of the Department of Agriculture that it will ease their administrative burden. The association wishes to reserve the right to again oppose any registration provision if H. R. 1237 is amended to again provide for a registration fee.

Mr. ANDRESEN. Let me ask you there, Mr. Conner, what have you to say about the suggestion that was made that there would be a reregistration after a 5-year period?

Mr. CONNER. I don't feel, Mr. Andresen, that that should be necessary. I do agree with the Department that there should be some method of keeping their registration list free of deadwood that might over a period of time accumulate, but I feel that there would be adequate means of doing that. For example, from the standpoint of administrative ease, I don't believe that the Department would want to do all of that at one time, because over a period of 5 years, say, they are going to accumulate thousands of registrations. It seems to me the Department could adequately do that by, instead of taking it all at once, after a period of time start sending a form letter to those registered asking if they are still marketing the product, and, if not, if there is any objection to removing that. Now, that could be sent out continually over a period of time, and I would think would ease their administrative burden, instead of doing it all at one time.

Mr. ANDRESEN. Of course, you are assuming that all manufacturers and producers will answer the letter. We have found that, during the course of the past 5 or 6 years, a good many people have been disgusted with all of these forms and questionnaires coming out of Washington, and a lot of them go in the wastebasket. Do you feel that there will be greater cooperation on the part of your industry to answer those form letters?

Mr. CONNER. Well, I feel that they would be answered. To begin with, if the product stays on the market over a period of years, as it is anticipated, the majority will, if there is any change in the product from time to time, any change in the formula, or claims made for the product, under this present law the manufacturer is required to notify the Department of those changes. So I think that, within itself, would give the Department a pretty good indication as to whether the product was still on the market; whether it was still active or not.

Mr. ANDRESEN. How many different products will come under the act—of members of your association?

Mr. CONNER. Well, the Department of Agriculture has made an estimate that they will have about 25,000 registrations. I would hesitate to make any estimate as to the number that will be furnished by the members of our association. It will be comparatively large, though, because just by virtue of the nature of the product that our members produce they lean toward a large number of products and not particularly heavy volume in some. That is taking the companies as a whole, considering the size of the companies as a whole.

Mr. ANDRESEN. With only 25,000 registrations, it seems to me that the estimated cost here of the additional \$285,000 is a lot of money.

Mr. CONNER. Well, I can't say as to that part of it. I have no information other than that furnished by Mr. Reed a while ago, as to the proposed break-down of that. I don't know. However, I think

it does stand to reason that, from the fee provisions of this, that you would not get any substantial help from that at all, because the majority of these 25,000 registrations would be within the first year, right after the act goes into effect, and prior to the effective date of the act.

At that time you would get a fairly good-sized amount of money. Assume you do have 25,000 registrations and the fee—we oppose any fee—but assume it was a fee of \$2 or \$3. That would be \$50,000 and \$75,000 the first year there, out of a total required amount of something over \$500,000. Now, after that I think you would not have additional registrations of new products coming on the market of over, maybe, a thousand a year, something like that. I doubt if it would exceed that, maybe not amount to that much.

Then your fees from that would just be a drop in the bucket and something that would have very much more of a nuisance value than anything else.

Mr. ANDRESEN. Do you feel that the need for this legislation warrants that kind of an expenditure?

Mr. CONNER. Well, that I wouldn't feel qualified to state. I will state that I feel that the Insecticide Division of the Department of Agriculture has in the past done an excellent job with the tools that they have had available to them and the appropriations that they have had I think have been well spent. There are inadequacies in the present law that should be met. We want a law that will bring the Federal law in line with the various State laws. Now, I would like to see that. As to what amount of money is necessary to accomplish that I couldn't say. I do feel that H. R. 1237 as presently written will accomplish that.

Mr. ANDRESEN. That is the main reason for your support of this legislation, that it will bring it in line with the uniform State laws?

Mr. CONNER. With the uniform State law, so that we will have a uniform pattern between the Federal Government and the various State governments. I feel that that will be a great help to the States, too.

Now, Dr. Griffin and Dr. Reed said a while ago that it will be necessary for the various State governments to still have their insecticide enforcement divisions and their laws. That is true. However, I feel this will ease their burdens a great deal. For example, in regard to the question of coloring of toxic products, that is a highly technical question and one that will require a great deal of research. I think that it is a requirement that just about everyone will admit there is a need for. If each of the State governments had to bear the burden of this research it would be an extremely heavy one.

I think that is something that the Federal Government under this proposed law could take the initiative in and save the States a lot of money and probably accomplish a better job than most of the States would be able to accomplish working alone with their present facilities.

Mr. ANDRESEN. Is it your opinion that the passage of this act will be for the protection of the public?

Mr. CONNER. Yes, sir, very definitely. I think that it would give the public very adequate protection.

Mr. ANDRESEN. You may proceed with your statement, Mr. Conner.

Mr. CONNER. We feel that this is more than a technical point. The registration provisions of H. R. 1237 parallel in principle the

registration of new drugs under the Federal Food, Drug, and Cosmetic Act. We believe that the Food and Drug Administration has a much heavier administrative responsibility in the registration of new drugs than will be the case in registration of new economic poisons. There is no fee requirement for new drugs. We believe that there is no difference, in principle. The registration of new economic poisons will not be an ordinary inspection function to which fees sometimes attach. It will be a notification to the Federal Government that the manufacturer intends placing a particular economic poison on the market and giving the Department all the pertinent information prior to the placing of the product on the market. We believe that it would be an important deviation from established Federal policy to require the payment of a fee by the manufacturer for this registration.

We accordingly urge that the registration provisions of H. R. 1237 remain as they are.

I might state that Mr. Hitchner, of Agricultural Insecticide and Fungicide Association, and Mr. George, who will follow me—we have discussed this bill with both of them and I am happy to report that we are in complete accord in support of the bill with them. I might comment just briefly on change 6 of the Department of Agriculture.

Mr. ANDRESEN. You might start out with 1.

Mr. CONNER. Change No. 1, page 2, line 6: we concur in this change, we have no objection to that.

Change No. 2, page 5, section 2 (s): frankly I have not been able to see the necessity for this change. It might be there. It is a rather technical point. It seems to me that the bill is all right as it is presently drafted. If, however, the Department feels that that change is necessary, we would have no objection to it. We would like to have opportunity to see the language, for technical points, before any definite change is agreed on, but that would not be a change of substance. We would have no objection to it if it is felt it is necessary.

Mr. ANDRESEN. Wouldn't that apply to each product there—

Mr. CONNER. Oh, I beg your pardon. I was thinking of No. 3 when I was saying that.

Mr. ANDRESEN. No. 2.

Mr. CONNER. Yes. That is right. I have covered that in my remarks. That is the inclusion of the materials within the definition of "label." We oppose this change. We don't feel it is necessary. It is not in the uniform State bill.

Mr. ANDRESEN. Dr. Gillie.

Mr. GILLIE. I would like to say, Mr. Conner, in connection with the labeling of any of these products—I think that is, of course, important—the very fact that you are putting the contents of a product on a label doesn't mean very much, but this bill, I think, is a decided improvement over the old bill, because along with it I think a manufacturing company ought to give the product's toxicity, its usefulness, its dependability, and all that, just as the biological house does with medicine. They are required to give the absolute facts. I know in my work back in Indiana, where they give the contents, they give on the label what is in the product, all right, but that doesn't mean very much, when you are depending on what this product is going to do, whether it is alive or not, and what it is supposed to do.

Mr. CONNER. I don't believe, Dr. Gillie, that that is in issue in this change. I agree with you. Other provisions of the bill cover that adequately, I believe. The only thing that would be accomplished by this change here would be to bring something in advertising or radio scripts that contain directions for use; it would place that particular item under the definition of labeling.

Now, other provisions of the bill take care of the particular considerations that you are mentioning there. An example of what would be accomplished by this change which is asked, and which we oppose, would be: Assume that the manufacturer has an ad in the Saturday Evening Post and say it was some insecticide and the manufacturer stated, "One application of this insecticide is effective for a period of 6 months." That I would interpret as being directions for use, written, printed, or graphic matter, which contains directions for use, and as such under this proposed change would constitute labeling. That is the only thing that we oppose. All of these other considerations which you mentioned are already taken care of in other parts of the bill.

Mr. ANDRESEN. You feel that this point raised by the Department, the jurisdiction of that should come under the Federal Trade Commission?

Mr. CONNER. It is under the Federal Trade Commission now, and even under this proposed change advertising in general would still remain under the Federal Trade Commission. It would result, certainly, in a dual enforcement of this particular type of advertising, and we don't feel that it is necessary.

For example, under the registration provisions of the bill any statements or claims for use or directions for use must be given to the Department of Agriculture at the time of registration.

Mr. ANDRESEN. Has the Federal Trade Commission ever investigated any of the products that are represented in your association?

Mr. CONNER. Yes, sir; they are continually doing so. Within the past month I think there have been four or five stipulations.

Mr. ANDRESEN. That is from the standpoint of advertising?

Mr. CONNER. Yes, sir.

Mr. ANDRESEN. I would like to ask Mr. Reed, with your permission, at this point: Mr. Reed, have you discussed this provision with the Federal Trade Commission?

Mr. REED. Yes, sir. We will give you a report on that conversation.

Mr. ANDRESEN. Dr. Griffin, it seems to me that there will be some duplication in activity unless the Federal Trade Commission surrenders its jurisdiction over representations made in advertising.

Mr. GRIFFIN. The Federal Trade Commission has a committee on cooperation with other agencies. We went down and discussed with that committee the inclusion of these words in the bill. The committee told us that it was the policy of the Federal Trade Commission where there was a special act covering a particular commodity to permit the enforcement against that commodity to go as much as possible into the hands of the body that was enforcing that particular provision. We asked specifically whether they advised the inclusion of these words in the bill and Mr. Whittley, with the entire concurrence of the committee, said that it was his opinion that the words "or which contains directions for use" should be included in H. R. 1237.

Mr. ANDRESEN. Can you tell us how much less by way of appropriation the Federal Trade Commission will need if this authority is transferred over to you?

Mr. GRIFFIN. I am not in a position to make any such statement.

Mr. ANDRESEN. Well, if they have less work, certainly they wouldn't need as much money.

Mr. GRIFFIN. We didn't discuss appropriations with them.

Mr. ANDRESEN. If Congress has to appropriate the same amount to the Federal Trade Commission as it did in the past when they took care of this activity, why, there would be a duplication.

Now, how much of the expenditure, Mr. Reed, is covered for this type of enforcement, in the event your suggestion is adopted?

Mr. REED. The inclusion or the omission of these words, Mr. Chairman——

Mr. ANDRESEN. The inclusion of these words, how much more does that—or how much does that cover in the \$285,000 estimate?

Mr. REED. May I answer you this way, that if the words are put in, or if the words are left out, we will not change our estimate a bit.

Mr. ANDRESEN. So that it will be the same for the Department as it is now for the Federal Trade Commission?

Mr. REED. Yes, sir.

Mr. ANDRESEN. Now, Dr. Griffin, let me ask you, was there any doubt on the part of the Federal Trade Commission that they had authority under law to enforce this act?

Mr. GRIFFIN. They felt that they didn't have the same authority that we would have under this law. That is, that their authority was more general.

Mr. ANDRESEN. Of course, that would be true with a good many items that the Federal Trade Commission goes into.

Mr. GRIFFIN. Well, it is true with the things that are enforced under the Food, Drug and Cosmetic Act, and that committee that I mentioned does have direct contact with them and permits the Food and Drug Administration to handle most of that work. May I say, in explanation, when the Federal Trade Commission has advertising on insecticides they very frequently and very commonly come to our division to ask technical advice as to what shall be done. That is, to ask as to the truthfulness of claims made.

Mr. ANDRESEN. And you furnish them with that information?

Mr. GRIFFIN. That is right.

Mr. ANDRESEN. And that hasn't increased the appropriation?

Mr. GRIFFIN. That is right.

Mr. ANDRESEN. You may proceed, Mr. Conner.

Mr. CONNER. I don't feel that the solution would be quite that simple. It might be as far as the Federal Trade Commission and the Department of Agriculture are concerned that there would be a working agreement there in which there was no overlapping or no duplication of function, but as far as the manufacturer is concerned I don't believe that that would be the case, because this would not put in the jurisdiction of the Department of Agriculture all advertising relating to insecticides or economic poisons, but only that part of the advertisement which relates to directions for use.

Now, the majority of your advertising of insecticides does not fall within that category. It is just talking about the products, trying to sell their product, and that is not done on the directions for use.

That part of the advertisement, or the larger part of the advertisement, would still stay within the jurisdiction of the Federal Trade Commission. It would have to. Then there would be dual jurisdiction. Now, I don't believe that there is any lack of authority in the Federal Trade Commission at the present time.

For example, within the past 2 or 3 weeks I have noticed that there have been two or three stipulations entered into by the Federal Trade Commission with manufacturers or Aerosol bombs where they stipulated to cease making certain statements that the Aerosol bomb used for a certain period of time in a room will accomplish such and such.

Now, that to me would be a direction for use. The Federal Trade Commission has, apparently, been handling that satisfactorily under their present law.

MR. ANDRESEN. Would there be any objection to including in the advertisement a phrase of this kind, "To be used according to instruction on labels"?

MR. CONNER. Well, I don't see that there would be any objection to that. In fact, I think that that is the theory of most of the advertisements anyway.

MR. ANDRESEN. Well, I think that would in part solve the matter without putting out specific directions in the advertisement.

MR. CONNER. Mr. Andresen, one practical result of this would be, say, if the bill were amended as asked here, any radio script which contained anything that would be construed as a direction for use would have to be sent down here and approved by the Department of Agriculture before it was used at all. That would be, certainly, very burdensome from the standpoint of administration, and I think to write a law that would define——

MR. ANDRESEN. You wouldn't have to do that with the suggestion that I made that it is to be used according to instructions on the label.

MR. CONNER. Well, did you have in mind writing in a provision in the law that would require that?

MR. ANDRESEN. Well, I hadn't thought about it that far.

MR. CONNER. It seems to me that would be a little difficult—to just write in law something that would require that.

MR. ANDRESEN. I might say off the record——

(Discussion off the record.)

MR. ANDRESEN. I thought my suggestion might call attention to, at least in the advertisement, that the product should be used according to instructions on the label.

MR. CONNER. Well, I think the present law covers that very adequately, because that is not involved, I believe, in this particular point. Other phases of this law cover that very adequately, I believe. The only question, the only dispute, here, is as to whether this advertising and radio script is going to be included under the definition of labeling.

MR. ANDRESEN. Of course, we are dealing with an economic poison and great care should be exercised. That is one need for legislation of this kind: to protect the public in the use of the product.

MR. CONNER. That is right.

MR. ANDRESEN. Now, on point 3, unless you have some further observations on point 2——

Mr. CONNER. No, sir; I have not. On point 3, that is the one I intended to cover awhile ago when I said that I really hadn't been able to see the necessity for the change. If it is felt that it is there, though, that would be just a question of formality on which we would have no argument.

Mr. ANDRESEN. If you will turn, then, to point 4.

Mr. CONNER. Point 4—we have no objection to that. That was a typographical error.

Point 5, in regard to the registration fee, I believe I have covered already. I have nothing further to add.

Point 6 would change the penalty provision of the bill to adding "or imprisonment for not more than 1 year or both such fine and imprisonment." We have no particular objection to bringing the penalty provisions of the present bill, of H. R. 1237, in line with the present law. However, I would like to point out that the change that is requested by the Department of Agriculture here would not do that, for two reasons. The present law would impose imprisonment, or would authorize the court to impose imprisonment, only on the second offense.

This change requested would authorize it on the first offense and also the fine of \$1,000 here. The present law imposes a maximum fine of \$200 on the first offense and \$300 on the second offense. If it is going to be changed, I think to write it in line with the part act—I believe that it should be changed in its entirety, to impose the same, both fine and imprisonment.

Mr. ANDRESEN. But as to the amount of \$1,000, of course, they say that the dollar doesn't go as far as it did when the original act was passed.

Mr. CONNER. Well, the past act lasted for 36 years now, and I believe that in the next 36 years it will be back where it is not worth anywhere near what it is now, either. I certainly hope so.

Mr. ANDRESEN. Well, then, the suggestion, as it now stands, from the Department; you would oppose that penalty?

Mr. CONNER. Yes, sir; we do. We ask that if it is going to be changed it be limited to authorizing imprisonment only for second offense, rather than the first offense, in line with the present law, and to put the fines in line with the present law. The fines in the present law—I think it is very unusual where that full fine is imposed, so I believe that those would be adequate.

Mr. ANDRESEN. Have you anything else to say?

Mr. CONNER. No, sir; I have not.

Mr. ANDRESEN. We think you very much. Are there any questions? Thank you.

Mr. L. S. Hitchner. Mr. Hitchner, will you give your name and address and whom you represent?

STATEMENT OF L. S. HITCHNER, EXECUTIVE SECRETARY, AGRICULTURAL INSECTICIDE AND FUNGICIDE ASSOCIATION

Mr. HITCHNER. My name is L. S. Hitchner. I am executive secretary of the Agricultural Insecticide and Fungicide Association, 285 Madison Avenue, New York City.

Mr. ANDRESEN. What is the extent of your organization?

Mr. HITCHNER. We have 80 members, and they produce about 90 percent of the tonnage of all the agricultural insecticides and fungicides.

Mr. ANDRESEN. And all of those products would come under the provisions of the proposed bill?

Mr. HITCHNER. That is correct.

Mr. ANDRESEN. You may proceed with your statement.

Mr. HITCHNER. The Agricultural Insecticide and Fungicide Association is a nonprofit organization representing the manufacturers and processors of agricultural insecticides and fungicides, rodenticides, weed killers, and related pest control products.

We endorse H. R. 1237 as drafted with the addition of an amendment proposed by Mr. Warren N. Watson, secretary of the Manufacturing Chemists Association.

The amendment proposed by Mr. Watson is as follows:

Amend section 6 (a), page 15, line 15, by eliminating the period after the word "act" and inserting the following: "and the determination and establishment of suitable names to be used in the ingredient statement."

This amendment will facilitate administration by the enforcement officials by making possible the use of common names in labeling. The organic chemical names of some of the new materials have no meaning to a layman.

Mr. ANDRESEN. May I ask Mr. Reed or Dr. Griffin if there is any objection to that proposal?

Mr. REED. That proposal is acceptable to us, Mr. Chairman.

Mr. ANDRESEN. You may proceed, Mr. Hitchner.

Mr. HITCHNER. The preparation of this bill and the model State bill has been carefully considered for more than 2 years by Federal enforcement agencies, other Federal bureaus interested in pest control, many State enforcement officials, the Council of State Governments, the National Association of Commissioners, Secretaries and Directors of Agriculture, the American Association of Economic Entomologists, the American Phytopathological Society, industry and others. The bill is the result of many conferences and hearings. We believe this draft represents the most practical approach to a problem which not only is highly technical, but involves a variety of conflicting interests. The bill will definitely improve protection to the public, which is its principal objective.

We understand that the Secretary of Agriculture has submitted for consideration of the committee six additional proposals. At this time we would like to state our position on these proposed amendments, as follow:

1. Page 2, line 6, omit the words "or weeds." If retained, they would bring hoes, scythes, and so forth under the control of the act as "devices," which seems unnecessary, and would not add anything which now appears to require control. We approve this suggestion.

2. Page 5, section 2 (s): It is desirable that an additional provision reading "or (4) which contains directions for use" be added to this paragraph in order to bring within the scope of the law misleading directions for use which may be distributed separately from the article. This change has been discussed with the chief trial counsel of the Federal Trade Commission and with a committee of the Commission on cooperation. They agreed on the desirability of the change

and were of the opinion that it would not cause conflict with the Commission's activities.

This provision has been carefully considered in previous discussions on proposed legislation. It was eliminated from the model State bill. We object to its inclusion in the new Federal bill. No evidence as to its necessity has ever been submitted.

3. Page 8, section 3 (a), line 4: As this provision presently reads, the receiver of a product in interstate commerce will be prohibited from repacking it for intrastate distribution. This is a common and accepted practice. It would seem doubtful that it is the intent of Congress to prohibit such repacking, as the constitutionality of such a prohibition is questionable and control of such transactions by State law is much more practicable. Due to the complicated nature of this section, it is difficult to make the change required to permit such repacking without rewriting the entire section. It may be, however, that the addition of the words "in the original unbroken package" after the word "deliver" on page 8, line 4, would accomplish the intended result although leaving something to be desired in the matter of draftsmanship. This language was used in H. R. 5645, Seventy-ninth Congress.

We do not clearly see the necessity of such change. If it is found to exist, however, we have no objection to any necessary change in drafting.

4. Page 9, line 16: The word "a" preceding the word "standard" should be deleted. The inclusion of such word would appear to be a typographical error.

We approve this change.

5. Page 12, section 4: It would be desirable to require a reasonable fee for registration. The fee would greatly facilitate administration by tending to reduce to a minimum the number of articles submitted for registration which there is no present intention to market. It would also serve to aid in defraying somewhat the administrative expenses in connection with registration. The bill provides for a single registration which remains effective indefinitely. It does not provide any method by which inactive registrations may be discarded. Reregistration at reasonable intervals or some similar device would be desirable for this purpose.

We object to a registration fee. No other regulatory law passed by Congress which we know of requires a fee to permit sale.

6. The words "or imprisoned for not more than 1 year, or both such fine and imprisonment" should be inserted on page 18, lines 18 and 23, after "\$1,000." The Insecticide Act of 1910 provides for fine or imprisonment, or both, for a second offense. We believe that it would also be desirable to provide for imprisonment as an alternative penalty for failing to register (sec. 3A (1)). Otherwise the manufacturer or shipper of a product which did not meet the requirements of the act might be tempted not to register at all rather than to request registration under protest and risk the possibility of imprisonment.

We believe that the penalty section, if amended as proposed above, would be unduly harsh. It is suggested that the penalty section be no more severe than that of the present law.

Mr. ANDRESEN. I want to refer to point 5, which was raised by the Department.

Would your association have any objection to a reregistration after a 5-year period?

Mr. HITCHNER. I don't think it is necessary. I am expressing more or less a personal opinion. I believe it could be very well handled by regulation, as suggested by Mr. Conner. I think that a letter could be sent out to the industry and I am sure that the industry would cooperate. I think 5 years also is too short a time because most of these products after they are once registered would stay registered. The majority of our products have been on the market for 12 or 14 years. Arsenate of lead is still arsenate of lead. We are having a wave of new organics coming in, but that is a normal peak, and after they are once registered, the registration in most cases should be in the files, in my opinion, for more than 5 years. Furthermore, the materials in the hands of the dealers and growers—lots of times stocks lay on the shelves for longer than 5 years. So that I don't think, personally, it would be necessary. I believe it could be handled by regulation very simply without incorporating the detail in the congressional act.

Mr. ANDRESEN. You had some correspondence with Dr. St. John?

Mr. HITCHNER. That is correct.

Mr. ANDRESEN. He has raised some points with reference to the bill. Are you familiar with his points?

Mr. HITCHNER. Yes, sir.

Mr. ANDRESEN. I would like to have you comment on them. He referred to an open formula.

Mr. HITCHNER. Well, that is the same subject that is involved—no. That isn't listed in the Department's suggestions.

Mr. ANDRESEN. No. He wants to go further than the provisions of the bill or the suggestions of the Department.

Mr. HITCHNER. That is right. There are two provisions in the bill for labeling. One requires the name of the active ingredients, with the percentage, and then the second, say, alternate proposal, which permits naming the product without the percentage. From the viewpoint of the agricultural manufacturers, we show and use option No. 1.

However, there are a great number of smaller manufacturers throughout the country making household and other items that feel that to compel them to disclose their formula to their competitors and to everyone throughout the country puts a very definite hardship on them. As a very practical matter, that group are strenuously opposed to disclosing what they believe is their stock in trade.

We believe and agree that they should be given all possible protection, although we have no particular interest in the subject. As a practical matter, however, the enforcement official can get from any company the complete formula by simply writing a letter and in my opinion that is all that is necessary. We are keeping the enforcement official fully informed. He can write a letter and get the complete information. We are making so much progress over the old bill, where you didn't have to show the ingredients, that it would be, in my opinion, a serious mistake to jeopardize this piece of legislation by getting the opposition of a very strong group of small people who feel that we are trying to make them disclose formula.

Mr. ANDRESEN. Well, the provisions of the bill are rather a compromise between the two extremes.

Mr. HITCHNER. That is right. This was discussed for 2 days at the Council of State Governments and we certainly were then before an impartial organization. We had the attorneys general there, together with the technical men. They put it in the model State bill. We feel that that same pattern could very well be followed in this bill.

Mr. ANDRESEN. A point has been raised by a Mr. Roy E. Miller, president of the Miller Products Co., of Portland, Oreg., and he mentions section 2, subdivision 2, and subdivision (e), which refer to the ingredient statement which must be placed on the label. Mr. Miller construes that language to mean that the ingredient statement must be placed on the front part of the label panel and expresses as his view that such a requirement would destroy the display value of the package. His construction of the language, he says, may or may not be correct. Is he correct, or is he wrong?

Mr. HITCHNER. The story on that is this, that under the present Federal act of 1910 there is a regulation which has for a good many years compelled us to put the analyses on the principal panel of the label. That is common practice and has been by the industry for years. So that if this law had that provision we are no different from present existing law. However, as we read the new law, it would go on the principal panel, but there is discretion on the part of the administrative official where you come to a very small package, where you won't possibly get it on, to modify that.

But Mr. Miller's present situation is that at the present time we must now put it on the principal panel.

Mr. ANDRESEN. Would you say now the proposed law doesn't change that?

Mr. HITCHNER. Doesn't change that.

Mr. ANDRESEN. Gives the Department discretion?

Mr. HITCHNER. We interpret it as giving them some discretion.

Mr. ANDRESEN. Do you have anything other to add?

Mr. HITCHNER. Nothing more.

Mr. ANDRESEN. We thank you very much, Mr. Hitchner.

We will hear from Mr. J. M. George.

Will you state your full name and address for the record, please, Mr. George?

Mr. George happens to be my constituent, so I will vouch for him. And also state whom you represent.

STATEMENT OF J. M. GEORGE, WINONA, MINN.

Mr. GEORGE. J. M. George, Winona, Minn. I represent the Interstate Manufacturers Association, which is an association of companies who distribute their products, whose products are distributed direct to the consumer by sale and delivery at the farm or the house. I am speaking for practically everybody that has that form of distribution of insecticides, everybody in the United States.

I want to reenforce first the written statements delivered by Mr. Connor and Mr. Hitchner. This legislation was not originated by industry. It came up through the activities of the United States Department of Agriculture, which realized the necessity for more modern legislation. The war brought on a renaissance of insecticide activity due to the great discoveries of new formulas, and the insecticide situation has gradually, year after year, become a much more

important function in the production of food, fruit, and other things than ever before.

I feel that a new insecticide, Federal Insecticide Act, is a practical necessity; and when I say that I am speaking from the standpoint of the consumer and the public interest.

I feel the Department of Agriculture was entirely justified in starting activity toward getting new and better legislation. The Insecticide Act of 1910 is a good act. It is outmoded. Industry can get along with that act without any trouble. We feel, however, that in view of the fact that there is so much activity on insecticide legislation, not only in the Federal Government, but in the States, that it should be uniform. We feel that the States follow the practice of following the lead of the Federal Government. The time has come when there should be a new Federal Insecticide Act. This act, of course, in a way is a compromise. Industry has worked with the various Federal and State agencies to arrive at a practical solution. The present bill is way ahead of the act of 1910. And when I say that I am talking from the standpoint of the public interest.

I feel that at this time a bill should be passed, and I feel that the bill as written is the bill that should be passed. It is not controversial to any considerable extent. These six suggestions made by the Department of Agriculture to the committee are unobjectionable in most respects. I am principally interested in opposing the two provisions, Nos. 2 and 5.

The one about including advertising under the act, general advertising, and the one about changing the registration situation. Now, in changing the registration situation so that there has to be renewed registration from time to time, we are increasing the necessity for more money for the Department of Agriculture. One registration, in my opinion, is sufficient. However, there is considerable merit to the position taken by the Department of Agriculture that the records will be cluttered up with deadwood.

I propose that an amendment be considered to require each registrant to make a report at the end of, say, a 5-year period, stating whether or not he has the product on the market. I propose that the amendment contain a provision that the registrant failing to do that, the Department shall have the right to consider that the registration is terminated. In that way, it would put no burden on the Department to initiate the cleaning up of the deadwood. The registrant would have to clean it up himself, or automatically be out of registration.

Mr. ANDRESEN. I would like to ask Mr. Reed what he thinks about that proposal.

Mr. REED. We could buy that.

Mr. ANDRESEN. And, Mr. Connor, would that be acceptable?

Mr. CONNOR. Yes, sir; I think so. It certainly is acceptable in principle.

Mr. ANDRESEN. Mr. Hitchner.

Mr. HITCHNER. It would be acceptable to us.

Mr. GEORGE. I won't discuss that any further.

I should like to call attention to this feature of including outside advertising as being another means by which the expense of the Department could be greatly increased to no real value to the public. The Federal Trade Commission can handle this, and I am very pleased

to note that the Federal Trade Commission and this Department are working closely together in the interest of the public on insecticides advertising under the present act, which doesn't contain that provision. If this provision is contained in this bill, the manufacturer or registrant will have to furnish all of this outside advertising that would be concluded to come under the language which is proposed to be inserted into this bill. The files of the Department would be so filled with this extra material that it would necessarily increase the cost of operating the Department and the administration of the act. It isn't a necessity. And, as Mr. Hitchner said, I have never seen any evidence that would make it an important matter to have that sort of provision in this bill.

MR. ANDRESEN. Do you see any objection, Mr. George, to including in the advertising a phrase of this kind, "to be used according to instructions"?

MR. GEORGE. Why, no; that is a common statement used now, but it doesn't solve this problem. Why should you limit what a man can say in advertising, so long as it is legal, and if illegal it is now under definite supervision. The point I think that you are overlooking is this:

I have a radio broadcast. I am talking about, probably, a new insecticide. I want to give information about that insecticide to the public for the purpose of getting the public to buy it. If I should happen to say, what it is useful for and make any little reference to the directions, then that advertising comes in under the act and it can't be used until it is submitted. That brings into the Department, without any real compensation to the public, all of this extra advertising; it interferes with the timing of advertising programs, and it certainly is a burden to industry. I would say if it were only a burden to industry, let them take the burden, but it doesn't seem to me that there is anything going to the public of benefit that warrants that sort of a limitation or regulation.

If we were required only to say, "Use according to directions," then it takes some of the kick out of our advertising. We don't use advertising to tell people how to use our products. What consumer listens to a radio broadcast and then uses an insecticide because of what he heard over the radio? He goes to the matter that goes with the package. So where does the consumer gain any protection by following this suggestion?

I feel that the bill as written, after all of the considerations, and we had plenty of discussion on this particular point when the bill was being formulated, for the start to the present time, and it was dropped out of the Council of State Governments bill—I don't think it is serious enough to warrant the trouble to amend the present bill.

MR. ANDRESEN. Of course, some people don't follow the instructions on a label after they read it.

MR. GEORGE. Well, of course, you can't hold the Department responsible for that, or the manufacturer.

I have nothing further to say, unless you want to ask some questions. I want to restate that industry is together on this. Industry has agreed, probably reluctantly in some respects, to some of the provisions of this bill, but it is such a step forward that I think it should be passed the way it is written. In a few years, if there is anything wrong—we don't have to wait for 36 years to change it—we can change it. When I say "we" I mean Congress, and with the

assistance and advice they get from the departments and from industry. They can change it to bring it up to date. At the present time I don't think that you will hear any substantial objection from the country on any provision in this bill. I feel that if you made changes in 2 and 5, that the bill might become controversial.

I think it is for the best interest of the public and for industry, and everybody concerned, that this bill pass. It might not pass if it becomes controversial. I certainly recommend the bill the way it is.

Mr. ANDRESEN. We thank you very much, Mr. George.

Mr. Warren Watson.

Mr. Watson, if you will state your name and address and whom you represent.

STATEMENT OF W. N. WATSON, SECRETARY, MANUFACTURING CHEMISTS ASSOCIATION, WASHINGTON, D. C.

Mr. WATSON. My name is W. N. Watson, secretary of the Manufacturing Chemists Association, 608 Woodward Building, Washington, D. C.

I appear this morning to support a recommendation sent to you, Mr. Chairman, in regard to one amendment. That was covered in letter to you dated March 11. That refers to an amendment to section 6 (a), page 15, line 15, eliminating the period following the word "act" and inserting the following:

and the determination and establishment of suitable names to be used in the ingredient statement.

Now, the purpose of that amendment was to give authority to the Secretary of Agriculture, which he does not now possess under H. R. 1237, to accept suitable common chemical names for use in the ingredient statements, instead of the lengthy complete chemical names otherwise required in the case of the new synthetic organics.

I understand, this morning, that this is acceptable to the Department.

Mr. ANDRESEN. And also to the representatives of the industry?

Mr. WATSON. That is correct. I gave you a detailed memorandum, which I don't think I need to read.

Mr. ANDRESEN. We can include that in the record.

Mr. WATSON. I will give that to the stenographer for inclusion in the record.

(The statement referred to is as follows:)

It is recommended that H. R. 1237 be amended to give the Secretary of Agriculture specific authority to accept the use of suitable common chemical names to be used in the ingredients statements of insecticides and fungicides in place of the long and complex chemical names which would otherwise be required in the case of many of the newer organic insecticides and fungicide materials. This can be accomplished by amending section 6a, page 15, line 15, by eliminating the period after the word "act" and inserting the following wording: "and the determination and establishment of suitable names to be used in the ingredient statement."

The problem which it is hoped to solve by the addition of the foregoing wording is an increasingly serious one from the standpoint of chemical manufacturers, and indirectly from that of insecticide manufacturers, entomologists, and consumers, and the general public. Many of the newer organic chemicals coming into use in the insecticide and fungicide field are extremely complex in their structure. The use of the complete correct chemical names to properly describe these materials in the ingredients statements would be impracticable from the standpoint

of label preparation and an absurdity from the practical viewpoint since the chemical name would be understandable only to highly trained organic chemists.

A practical example of this could be given by citing a specific example which is not by any means an extreme one. A product commercially known as Piperonyl Cyclohexenone is available for use in agricultural insecticides as an active ingredient on an insecticide label would require a statement of the two major compounds which are present and which are—

1. alkyl-5-(3, 4 methylenedioxy)-phenyl-3-carbethoxy-2-cyclohexen(5)-one-3.
2. alkyl-5-(3, 4 methylenedioxy)-phenyl-3-cyclohexen-5-one.

Many of the newer chemicals now becoming available, and many more which are certain to become available in the next year or two have equally complex and difficult names. The difficulty of this situation is fully recognized within the Department, but there appears to be no clear legal authority under the present law or under H. R. 1237 as it is now written, to determine and establish suitable names for such cumbersome chemical names except as common names may eventually become legally acceptable, which is a matter of many years.

The manufacturers of these organic chemicals feel that any requirement compelling the use of the chemical names or creating any lengthy uncertainty as to the correctness of labeling procedure, can easily serve as an appreciable barrier to the adoption and use of intrinsically valuable materials with consequent loss of all concerned. It is believed that with the authority given by the suggested amendment the Secretary can designate names for these chemicals which will meet the necessary requirements of being reasonably short and pronounceable and which will be understood by everyone concerned as applying to the specific chemicals in question.

Mr. WATSON. This bill represents a long course of evolution. It is a very complicated affair. It has involved many controversies. The result of a great deal of study on the part of the administrative officials, State officials, and also members of industry. We submitted very detailed comments at the hearings held back on February 6, 1946. I simply want to endorse this bill as now written. We think it will be a very real contribution to these rapidly expanding and increasingly important fields, and also will add to the tremendously important problem of uniformity.

In regard to the six amendments suggested by the Department, we support the position taken by Mr. Hitchner this morning on those respective amendments.

Mr. ANDRESEN. We thank you, Mr. Watson, for your statement.

Mr. H. S. Garber.

If you will state your name and address for the record and whom you represent, Mr. Garber, we will be glad to hear from you.

STATEMENT OF H. S. GARBER

Mr. GARBER. H. S. Garber, secretary to Congressman Ellsworth, of Oregon.

Mr. Chairman, about 5 or 6 weeks ago the Congressman addressed a letter to the committee requesting that he be given an opportunity to present some observations. Unfortunately because of a simultaneously scheduled investigation by the Interstate and Foreign Commerce Committee he was called out of town, and just prior to leaving he asked me to come down and present, as best I could, the thoughts he had in mind.

The comments that I wish to make will be limited primarily to matters concerning labeling. I am going to follow this procedure so that we get the whole picture here. I want to discuss first the 1910 act, the regulations written pursuant to the 1910 act, and the regulations in the bill presently under discussion.

Mr. ANDRESEN. This is on the point raised by Mr. Roy Miller?

Mr. GARBER. That is correct.

In section 8 of the Insecticide Act of 1910, we have the language which deals primarily with labeling and misbranding. The pertinent language of that section is as follows:

That for the purpose of this act an article shall be deemed to be misbranded—
In the case of insecticides, paris greens, lead arsenates, and fungicides: First, if it be an imitation or offered for sale under the name of another article; second, if it be labeled or branded so as to deceive or mislead the purchaser, or if the contents of the package as originally put up shall have been removed in whole or in part and other contents shall have been placed in such package; third, if in package form, the contents are stated in terms of weight or measure, they are not plainly and correctly stated on the outside of the package.

The language, reduced to simple terms, simply means that on the label of an insecticide there must be nothing that misleads or deceives the prospective purchaser and that a statement of ingredients shall be plainly and correctly stated on the outside of the package.

Now pursuant to that language we have the following regulations which have been written and are being enforced. I am reading from the regulations for the enforcement of the Insecticide Act of 1910, issued by the Department of Agriculture, in the section devoted to labeling, section 161.12. Statements on label, "a" says it shall be in the English language; "b" deals with the ingredient statement:

The ingredient statement, where required on the labels of insecticides and fungicides, shall: (1) be placed on that part of the label of each individual package or container (and also on the carton or outer container, if there is one) which is presented or displayed under customary conditions of purchase.

In other words, the ingredient statement must be on the front of the label to conform to this regulation under the 1910 act.

(2) Run parallel with other printed or reading matter on the label; (3) not be materially less conspicuous than any other word, statement, or information on the label.

I hope you get that clearly, that the ingredient statement has to be not less conspicuous than any other word, statement or information on the front of this label.

(4) This be on a clear, contrasting background and not obscured by designs or vignettes, or crowded with other written, printed, or graphic matter; (5) give the specific names by which the ingredient is commonly known, other than a trade name or collective name, or, if it does not have such a name, its correct chemical name; (6) give equal prominence to the names of the ingredients where more than one is present; (7) give single values for the percentages of the ingredients and shall not use a sliding scale form of statement; and (8) show the term "inert ingredient" in type and position equally as conspicuous as the term "active ingredient" when both these terms are used.

There are some additional clauses in the regulation, but I want to limit myself particularly to those statements.

The act itself, as I pointed out, simply says that on the front of this label there shall be nothing which is deceptive or in the nature of a misrepresentation to the purchaser and that the ingredient shall be plainly and clearly stated on the outside of the package. It doesn't say it has to be on the front of the label. It doesn't say anything about the size of type or anything else of that nature.

Under these regulations it is necessary for the manufacturer, if the label conforms with the regulations, to have each ingredient listed on the front of that label, and that ingredient must be printed as conspicuously as any other word on that label.

Now, applying that to a case in point, and I should like to submit this to the committee to look at while I discuss it (handing paper to the chairman), you have a label there before you which gives the manufacturer's name, the name of the product, his trade-mark, and the purpose for which the particular insecticide is designed.

Immediately adjoining that to the left you will find an ingredient statement in clear, plain type of equal size to the body of other text on that label, and you will note that that ingredient statement lists 8 ingredients and takes up 13 lines of type.

Now, then, I submit to the committee that if those 13 lines in that ingredient statement must appear as conspicuously as anything else on the front of that label, the manufacturer is not going to have anything that resembles a label on his product.

The theory back of this requirement is that it is necessary in the protection of the public to have this ingredient on the front panel of the label.

Mr. ANDRESEN. May I ask you, is the Miller Products Co. using this label now?

Mr. GARBER. They were cited by the Agricultural Department in December 1946, and the Department makes the following statement concerning it:

The ingredient statement should appear on the main panel of the label. This is definitely required by Regulation 161.12-b on page 3 of the enclosed pamphlet, which we have not authority to waive.

Page 3 of the enclosed pamphlet is what I was just reading from.

Mr. ANDRESEN. As I understand it, the proposed act which we are discussing, will give the Department that authority which they claim they do not have at the present time.

Mr. GARBER. Well, frankly, I question whether or not a court would say that the manufacturer in this instance is not complying with the whole spirit and intent of the law as set forth in the Insecticide Act of 1910, because his ingredient statement is definitely set forth on that label plainly and clearly.

Now, then, if he moves that label to the front and tries to preserve any type of label which has any sales value to it he is going to have to reduce the ingredient statement to very small type, but if he does that immediately they come back under this page No. 3 "b" under "Labeling," which says, that such a statement cannot be materially less conspicuous than any other material, word or statement on the label.

I want to point out what the practical effect of such a regulation is. Let us suppose we have two manufacturers. A manufacturer develops, we will presume, a very fine formula. It has 7 or 8 or 10 ingredients in it. He is compelled to comply with the strict language of the law. As I will point out that language that is written in these regulations is carried over directly into the present bill. If he has to conform with the language of this bill or the existing regulations, then he is going to try to place a product on the shelves which is going to be very unattractively packaged. He probably will not sell too much of it. His competitor, who may have a much less effective insecticide, have only one ingredient in it, and therefore can place the name of that ingredient in comparable type on the front of the panel and probably make the sale.

The Division reasons that when the public goes into a store to buy a package of insecticide they are going to look along the shelves and pick out the package which is most attractively prepared, and they don't believe that the customer is going to look any place except on that label.

Now, that places a definite disadvantage on the manufacturer who has to use up what he might term the front part of his label on a lot of type and information which takes away the entire display value of such a label. The only even chance the manufacturer of that product would get would be in case a blind man came in and picked up a package; he couldn't read the label, but the manufacturer of that product would have an even break with any competing item on the shelf.

The man with 8 or 10 items in his formula is going to have about as much appeal from the standpoint of sales as the old maid at the kissing booth in the charity bazaar.

Now, then, turning to the language in the instant bill, section 2 (u), page 5, you begin with the definition of the term "misbranded," following which you have the language which specifically covers the matter of labeling. In "c" you find this language:

If the label does not bear an ingredient statement on that part of the immediate container and on the outside container or wrapper, if there be one, through which the ingredient statement on the immediate container cannot be clearly read, of the retail package which is presented or displayed under customary conditions of purchase.

Now, that language there gets around actually to saying this, that the ingredient statement must be on that portion of the retail package which is presented or displayed under customary conditions of purchase. Exactly the same as the provision in the existing regulations.

(f) If any word, statement, or other information required by or under authority of this act to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or graphic matter in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

There, again, we have a continuation of 3 (b) in the section under labeling which in the regulation at present says that the ingredient statement shall not be materially less conspicuous than any other words, statement, or information on the label.

As a consequence you have this situation: Manufacturers, as they get into some of these newer and more complex materials, are going to be discouraged in placing them on the market for the general public. The purchasers of large quantities of insecticides, they know what the formulas are, they know what they are buying; they don't have to be bothered about reading a label or whether or not there is one. If one is on, fine. They know what they are getting before they purchase. But the general public has to depend upon the label for its directions and for knowledge of the ingredients.

If an attractive package cannot be put on the shelves, no matter how effective that insecticide may be, it is not going to meet with the sales volume that a less effective insecticide may have, but which, by reason of its simple formula, has an attractively designed label.

It is Congressman Ellsworth's feeling that the committee should make some modifications in connection with this particular section.

The public should be protected. An ingredient statement is necessary, but there should be some latitude so that the manufacturer who has a detailed ingredient statement may at least have the privilege of putting that ingredient statement other than on the front panel of the package in a clear, concise way, and in at least equal type to the body of any other text on that package.

Mr. ANDRESEN. We thank you very much.

At this point I would like to ask Mr. Reed if the language to which Mr. Garber has referred gives greater latitude with reference to the proposal that he has brought up than the original law?

Mr. GRIFFIN. I think it gives somewhat greater latitude though there is the definite statement that it must appear on the front panel of the label.

Mr. ANDRESEN. That is in "e" and "f"?

Mr. GRIFFIN. That is in "e" and "f", that is right. And I might say that that is being done at the present time on almost all labels. There are very few cases where it doesn't appear there.

Mr. ANDRESEN. We have several other witnesses and it will probably take us an hour and a half or 2 hours to conclude the hearing. It is now 12 o'clock, so I think we will adjourn until 1:45, which will give you an opportunity to have some lunch, and we will meet here at 1:45.

Mr. THATCHER. Mr. Chairman, it would be a great convenience if you could hear what I have to say this morning. It won't take but 1 minute.

Mr. ANDRESEN. All right; will you give your name and whom you represent?

STATEMENT OF H. K. THATCHER, DIRECTOR, ARKANSAS DIVISION, AGRICULTURAL INDUSTRIAL COMMISSION; EXECUTIVE SECRETARY OF THE NATIONAL ASSOCIATION OF COMMISSIONERS, SECRETARIES AND DIRECTORS OF AGRICULTURE

Mr. THATCHER. My name is H. K. Thatcher. I am the director of the Arkansas Division, Agricultural Industrial Commission and the executive secretary of the National Association of Commissioners, Secretaries and Directors of Agriculture.

Mr. Chairman, we are very much in hopes that the Congress will pass this bill about as it is being discussed here this morning. We have been for this type of legislation for the last 2 years, and have sat in most of the hearings and have been quite instrumental in getting the uniform State law written. As has been reported, a number of the States have already passed that law.

There is just one suggestion that I would like to make and that is on page 24, line 4. The present bill as written differs from the one approved last year, in that, in line 4 of page 24, the word "agricultural" is left out, and we would like to suggest that it read, "and with the official agricultural regulatory agency of any State."

Mr. ANDRESEN. Well, now, would there always be an agricultural agency in the State?

Mr. THATCHER. I think 95 percent of the time that there would. It is the agricultural agencies of the States that have the burden of regulatory work in just about 95 percent of all of the things covered in this bill.

Mr. ANDRESEN. With the exception of that suggestion the bill as it is written is satisfactory to you?

Mr. THATCHER. So far as I can see personally it is fine. I hope you pass it immediately.

Mr. ANDRESEN. Mr. Reed, does the Department have any objection to the proposed amendment?

Mr. REED. If that would not limit us.

Mr. ANDRESEN. Well, I don't think so. At least it shouldn't. If there is some other agency in the State that has charge of it other than agricultural agency I assume that it isn't the purpose of your amendment to limit them only to agricultural purposes?

Mr. THATCHER. The purpose of the suggestion, Mr. Chairman, is that in some of the States we have other agencies besides agricultural regulatory groups that try to exercise such authority and for the uniformity's sake we want to get them all in one department.

Mr. ANDRESEN. Well, if there should be a State food and drug section handling such a matter in a State and no agricultural agency, wouldn't the tendency of your amendment be to stop the cooperation which is sought by this legislation?

Mr. THATCHER. Well, certainly, there shouldn't be any effort to stop the cooperation of the Federal Government if there is no agricultural agency within the State, but we are trying to get uniform regulations throughout the States, and the departments of agriculture in practically all of the States handle that type of work, and where the State agricultural departments are handling that work, we think that the Secretary should cooperate with the agricultural department rather than with some other agency.

Mr. ANDRESEN. We thank you very much.

Mr. THATCHER. Thank you.

Mr. ANDRESEN. The committee will recess until 2 o'clock.

AFTERNOON SESSION

(The committee recovened at 2 p. m., upon the expiration of the recess, Hon. August H. Andresen (chairman of the subcommittee) presiding.)

Mr. ANDRESEN. The committee will come to order.

Our next witness will be William Heckendorn, of the National Council of Farmers Cooperatives. Mr. Heckendorn, if you will give your name to the reporter for the benefit of the record, you may give your statement.

STATEMENT OF WILLIAM HECKENDORN, APPEARING FOR NATIONAL COUNCIL OF FARMER COOPERATIVES, WASHINGTON, D. C.

Mr. HECKENDORN. My name is William Heckendorn, and I am assistant secretary of the National Council of Farmer Cooperatives. It is a national organization representing about 4,600 cooperative associations who serve about 2,400,000 farmers, so you will note that we represent the users of these materials more than we do the manufacturers.

Last year, Mr. Chairman, we appeared before the committee in support of the legislation as proposed last year. We do feel that since the present act under which we are operating dates back to 1910 that it should be brought up to date.

We have had many new diseases and pests since 1910 to contend with. There have been new materials developed and some of the States now have laws which are better than our Federal law.

We feel that the Federal law should be somewhat of a pattern for State laws. Therefore, we urge the adoption by this Congress of a law similar to the one we are now discussing.

My questions that I will raise will be primarily from a layman's point of view, and not from the technicians' point of view as the questions came to you this morning.

Under prohibitive acts, section 3 (a), page 7, of the act, we talk about the movement of insecticides. Of course this reference primarily relates to the movement of insecticides in interstate commerce. However, before they are available to the consumer they have to be distributed, so I am thinking about it from the distribution angle.

My question is: "Would distributors, selling in broken packages, be committing a prohibited act?" That is the question I would like to raise on that particular section.

Mr. ANDRESEN. Do you want that question answered as you go along?

Mr. HECKENDORN. I would prefer so, if you do not mind, Mr. Chairman.

Mr. ANDRESEN. I might ask Mr. Reed, or Mr. Griffin to answer that question.

Mr. GRIFFIN. Sale over the counter in the States would be a purely intrastate proposition which would not be covered by this act as it stands.

Mr. ANDRESEN. That would then be regulated by the State act.

Mr. HECKENDORN. That is right.

The next question that I have has to do with registration. This is section 4 (a), pages 12, 13, and 14, and the matter has already been brought up once and it just happens to be in my notes here, and I do not think I am going to add anything to the discussion this afternoon.

However, it does seem to me that because no registration fee is required, that manufacturers should be required to reregister at least every 5 years because we have two things in mind. One is to protect the public, and the other is to encourage States to rely more upon our Federal statute, so I think those two points are important, in connection with reregistration.

Mr. ANDRESEN. Did you hear the proposed amendment that was suggested this morning putting the burden of proof on the manufacturer? That is, the manufacturer to file a statement within the 5-year period as to whether or not that product was still on the market?

Mr. HECKENDORN. It does not seem to me like that is good administration. I think it would be much better for the organization charged with the administration of this act to be in a position to check their records periodically, and determine which of these insecticides are now being manufactured, and which of them are to be declared obsolete and are no longer manufactured. I think from the point of view of the administration it would be better that was

placed with the Department of Agriculture, or the agency that is going to administer this act, requiring reregistration once every 5 years.

The next question is one that has to do with registration under protest. Again I raise this question from the point of view of the protection which we are going to give to the public.

Under section 4 (a), page 13, the Secretary may register under protest, insecticides. I am raising this question: "Why should the protection which the public is supposed to receive be compromised?" That is one I would like to hear some discussion on, if you do not mind.

Mr. ANDRESEN. By that you are reading into the act that if a manufacturer has no desire to register, he can do so under protest?

Mr. HECKENDORN. I believe the protest rests with the Secretary of Agriculture.

That is, the manufacturer protests, but the Secretary has the privilege then of registering the item under protest.

Mr. ANDRESEN. What would you suggest in connection with that?

Mr. HECKENDORN. Unless there is some very good reason for him compromising the registration, I would think that it should be stricken, and that every insecticide should be registered. ✓

Mr. ANDRESEN. We would be very glad to consider your suggestion.

Mr. HECKENDORN. The next question I have is with regard to the effective date, and here again I refer to this section, primarily from the distributor's point of view.

Under that section relief clause is granted but application must be made for the relief. Now, my question is this: "Since this act primarily covers the movement of insecticides in interstate commerce, should some of these insecticides be on hand on the shelves of distributors when the act becomes effective, would they be obliged to make application for relief if they had not been able to dispose of the stocks that they had on hand?"

Mr. ANDRESEN. What is your answer to that question, Mr. Reed? or Dr. Griffin?

Mr. GRIFFIN? This does provide that relief may be granted in case it seems necessary. Of course, the act in regard to insecticides, fungicides, and disinfectants does not go into effect until 1 year after its passage, and 1 year after its passage would seem in most cases, sufficient to clear the shelves.

Now, of course, if merchandise has already traveled in interstate commerce and is held locally, that material would not be subject to the act insofar as shipment was concerned.

Mr. HECKENDORN. This only applies to new shipment, then, moving in interstate commerce.

I want to be sure to get that into the record for the reason that we do represent distributors, and some of these questions may be raised by our people.

The next question I have, Mr. Chairman, has to do with the complete formula. The Secretary may require that a complete formula be presented upon his request. I have no particular convictions one way or the other on this point, but I would like to point out this, that in our cooperative associations we are very much in favor of what we call open formulas, where both the quantity of ingredients and the amount of the ingredients is shown in the formula, or shown on the label that appears on the tag or the bag.

It would seem to me like, if the open formula were insisted upon by the Secretary of Agriculture, that it would eliminate the necessity of an ingredient statement from the point of view of inert and active ingredients because you would have the complete formula and therefore it would not be necessary to have that particular section that deals with the inert and active ingredients in the law.

I am not advocating that because I am not sure whether it is necessary and I do know that the trade, as was brought out here this morning, objects to it. But from the point of view of our organizations that the national council represents, we are in favor of the open formula and we would be in favor of a complete formula being furnished on registration, but we would not insist upon it.

The last comment that I have is one which I realize full well cannot be taken into consideration in this particular bill because we do not know enough about insecticides yet. A great deal of research is necessary before we are going to be able to do anything about the point I am going to mention.

I am in favor of no registration fee, and I am in favor of that because of the extensive research that must be done in the next few years.

You recall a few years ago a group of us came before you, and some of the other Congressmen, and asked for a special appropriation of \$12,500,000 for incentive payments in the production of legume seeds. Since that time we have set up a program under the Agriculture Research Administration, trying to determine why it is that our yields of legume seeds have dropped so rapidly.

One of the reasons that has been developed is the fact that our insecticides will kill everything. They kill both our beneficial insects as well as our harmful insects. And so far our development in insecticides has been to kill, it has not been to try and isolate and use certain insecticides that will protect our beneficial insects.

I feel the time is coming when we are going to be obliged to give more consideration to the type of insecticides which we use simply because we now find bee keepers are unwilling to place their bees in areas where certain insecticides are being used, simply because their colonies are being killed off.

For that reason I am very much in favor of a caution warning statement being required on the label to the effect that it will kill these beneficial insects.

I may be raising a question here that might create quite a controversy, but I think we have already appropriated over \$30,000,000 for these incentive payments on legume seeds production, and certainly we cannot go on continually appropriating such sums of money. I think the present appropriation carries some \$10,000,000 for that particular purpose. I feel that that insecticide should carry a citation on this point which would be a warning or caution to purchasers that would be very helpful to the users of these insecticides, especially in agriculture.

Those are all the comments I have, Mr. Chairman.

Mr. ANDRESEN. We thank you for your statement.

Mr. HECKENDORN. Thank you, Mr. Chairman.

Mr. ANDRESEN. The next witness is Mr. Donald Chaney.

STATEMENT OF DONALD J. CHANEY, CHIEF COUNSEL, FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR, WASHINGTON, D. C.

Mr. CHANEY. I am Donald J. Chaney, chief counsel, Fish and Wildlife Service, Department of the Interior.

Mr. ANDRESEN. We would be delighted to hear you, Mr. CHANEY.

Mr. CHANEY. The Department has not been requested to make a formal report on this particular bill; therefore anything I say here must be considered on an informal basis.

However, as the chairman will recall, the Fish and Wildlife Service was interested very definitely in the legislation proposed at the last session, particularly because of the functions of the Fish and Wildlife Service which relate to rodenticides.

The Fish and Wildlife Service has felt for some time that rodenticides should be covered by Federal legislation of the nature and type proposed here, and of the nature and type that has been in effect for some time with respect to insecticides.

I do not believe it is necessary for me to discuss any details of the provisions of the bill. They have been rather adequately covered already.

I might add that the Fish and Wildlife Service now maintains and operates facilities where it tests and determines the effectiveness of rodenticides and it also has facilities for the distribution of rodenticides that it has found effective as the distribution is through cooperative agreements with the States and various organizations.

Mr. ANDRESEN. As far as the bill itself is concerned, the interests of the Fish and Wildlife Service is to perfect some legislation that will bring about the manufacture and sale of insecticides so it will not be particularly injurious to wildlife.

Mr. CHANEY. Yes. We, of course, have that problem as far as the insecticides are concerned. The problem has just been mentioned to some extent by the previous witness. So far there have been some damaging effects in the use of insecticides, but I think those problems can be worked out as time goes on.

Mr. ANDRESEN. Are there any questions?

(No response.)

Mr. ANDRESEN. Thank you very much, Mr. Chaney.

Mr. CHANEY. Thank you, Mr. Chairman.

Mr. ANDRESEN. Mr. Coltrain is the next witness.

STATEMENT OF D. S. COLTRAIN, ASSISTANT COMMISSIONER, NORTH CAROLINA DEPARTMENT OF AGRICULTURE, RALEIGH, N. C.

Mr. COLTRAIN. Mr. Chairman and gentlemen of the committee, my name is D. S. Coltrain, assistant commissioner, North Carolina Department of Agriculture.

Mr. ANDRESEN. We will be glad to hear you.

Mr. COLTRAIN. I would say I represent about 330,000 in the State of North Carolina. As a North Carolina legislator who would refer to this bill I would say by and large it is a good bill. We have some little criticism of it.

We do think that it represents the need to give better protection to the consumers of insecticides, fungicides, and other economic poisons because it goes farther than the present law. We realize that with respect to our law in North Carolina. Consequently we got together our State chemists, our State entomologists, our insecticides chemists in the department, extension entomologists at the college, extension pathologists and some others about 2 months ago and we took this bill and we took the model States bill and worked out a bill for submission to the North Carolina Legislature.

That bill was passed and enacted into law last Friday with a change in only two words. It is slightly different from this bill. We think it is a little better. We think it is much better than the present act. Our only criticism that we would offer of this pending bill is with reference to the option that is given on page 3, subsection (j).

We deleted in the North Carolina bill option No. 2. I was particularly pleased this morning to hear the representative of the Agricultural Insecticide and Fungicide Association say that it is their policy to label their products, generally speaking, under option 1.

Our extension entomologists and pathologists in North Carolina say that it is very important that such products as represented in this law, especially with respect to agricultural products, that they have listed the active ingredients, that that enables them to go out and tell the farmer to buy any brand of insecticide or fungicide that contains a minimum of certain ingredients, that if it were listed, or if the manufacturer used option 2, and listed only with the commissioner the formula, that it would put them in position of having to come to the commissioner to see the registration, and then make notes of it and go out and tell the consumer to buy a certain brand insecticide which they would dislike to do.

Therefore, we deleted section 2 from our bill, which is now enacted.

So, if we are going to criticize the bill which you are considering, it would be with respect to option 2.

I have the same views with respect to registration; it is on page 13, under protests, as the gentleman from the cooperative association. We do not like the idea of a product being registered under protest. It could be possible, if that provision is included in the bill, or in the law, that a product might be sold that was an inferior product, before it might be taken off the market. I recall a circumstance last year with respect to fertilizer that was offered for sale in North Carolina, and if that manufacturer had been privileged to sell it or register it under protest, that before the control agency or the commissioner could have removed it from the market, that several thousand tons of it might have been sold interstate, and according to the authorities, agricultural experiment station authorities, that fertilizer would have been injurious to the growing of flue-cured tobacco.

So I say we dislike the matter of any product—fertilizer feed or whatever it might be—being registered under protest.

We would be opposed to the Federal Government imposing a registration fee, because so many States obtain their revenues for the enforcement of their acts by fees and if a fee were levied by both the Federal and State governments, it might be too heavy against the manufacturers.

Mr. ANDRESEN. I do not know, Doctor, where you figure the State government gets its money from, but I think probably it comes from

the same people who not only buy the product but also pay the fee in your State.

Of course your State is rather fortunate that there are a good many of us who pay taxes as a result of products produced in your State.

Mr. COLTRAIN. That is quite true.

Mr. ANDRESEN. You feel that legislation of this kind is necessary to protect the public?

Mr. COLTRAIN. Very definitely. And I think by and large it is a good bill, and we would like to see it enacted into law.

As I said, we would prefer that option No. 2 be deleted, but because I do favor uniformity—I have been working for the past 2 years drafting a model States fertilizer bill, and I happen to be chairman of the committee that is drafting that bill—and we have two motives in mind: Getting uniformity and better enforcement. I do think that uniformity is very important.

Mr. ANDRESEN. What fee do they pay in your State to register an economic poison?

Mr. COLTRAIN. Ten dollars per brand.

Mr. ANDRESEN. Ten dollars for each brand?

Mr. COLTRAIN. Each and every brand.

Mr. ANDRESEN. Is that one fee? Once they are registered, is that the end of it?

Mr. COLTRAIN. Once every year. Registration annually.

Mr. ANDRESEN. So they pay the \$10 fee every year?

Mr. COLTRAIN. That is right.

Mr. ANDRESEN. It must be reregistered?

Mr. COLTRAIN. And on that point I would like to agree with the gentleman from the cooperative association that in my opinion it should be registered with the Federal Government at least every 5 years. I have handled fertilizer registration, about 1,500,000 tons of fertilizer for 10 or 11 years. I have handled feed registration and I know that they can become very obsolete.

I do not think it is too much burden to put on a manufacturer of insecticides to require that he bring his registrations up to date at least once every 5 years.

Mr. ANDRESEN. How much revenue do you anticipate that the law of North Carolina will bring into your State treasury?

Mr. COLTRAIN. Mr. Chairman, I anticipate that it is going to bring in around \$10,000. We have had a law there that covers only agricultural insecticides and fungicides and that has brought in, with the same registration fee, a little less than \$4,000.

We figured that with a broadening of the act to include all these products that it is going to bring in two and a half times as much.

Mr. ANDRESEN. Will that be sufficient to carry on the enforcement of the act?

Mr. COLTRAIN. I do not think so. I think we will have to use some of our farmers' feed and fertilizer taxes to carry it on. Some gentleman from the industry felt that that fee was a little too much and that it was going to produce more revenue than was going to be required to enforce the act. We do not think so. But I told them that if it did produce more revenue that we would be the first to recommend that it be reduced because I am not in favor of levying a tax for inspection of feed to produce more revenue than what it would take to enforce the act.

Mr. ANDRESEN. If \$10 fee were charged for each brand in all the 48 States, it would run into quite a bit of money.

Mr. COLTRAIN. That is right.

Mr. ANDRESEN. If we put on another \$10 fee here, that would still run into more money.

Mr. COLTRAIN. I would say this, Mr. Chairman, that I think that the enforcement of this act can be, from a Federal level, kept to the minimum with the closest of cooperation between the Federal and State governments.

In my opinion, the State inspectors should be deputized by the Federal Government to secure samples for them. I think that in many cases, the State laboratories control official could be deputized and thereby the expenses from the Federal level can be kept within a reasonable figure, with close cooperation with the State governments.

Mr. ANDRESEN. The fact that the North Carolina law is different from the uniform bill will not interfere with the cooperation which you intend to give to the Federal department?

Mr. COLTRAIN. No, sir.

Mr. ANDRESEN. Mr. Gillie?

Mr. GILLIE. I want to turn to page 3 of that statement where you suggest that paragraph No. 2 be taken out. Is that correct?

Mr. COLTRAIN. That is right.

Mr. GILLIE. And the idea of that is on account of the high toxic effect, the high toxicity of these poisons you think would be detrimental to the sale of these goods?

Mr. COLTRAIN. Not so much that as under option No. 2, for example, it would permit a manufacturer to register if his product contained sulfur and copper sulfate. He could list sulfur as blank, and list copper sulfate as blank, and he could list his inert ingredients at 40 percent.

Yet, this extension entomologist and pathologist would not know how much sulfur or copper sulfate were present. He might want it in certain proportions, but he would not know. It might be 90 percent in one and only 10 percent of the other.

Mr. GILLIE. For that reason, you think that each of the products should be registered on the package?

Mr. COLTRAIN. And that is the way we wrote our North Carolina act.

Mr. GILLIE. That is a very good idea. There are a lot of these products that have been sold in the name of disinfectants and anti-septics. I think it is a step forward here in trying to get this thing ironed out so as to get some good, reliable products.

Mr. ANDRESEN. Will the gentleman yield?

Mr. GILLIE. Yes.

Mr. ANDRESEN. In the event that this proposed law or bill is modified the way you have taken care of your situation in North Carolina, would it not simply require disclosure of some trade secret in the manufacture of the product?

Mr. COLTRAIN. Mr. Chairman, I think it would, to some extent. On the other hand, our experiment station people in North Carolina feel that the experiment station people throughout the country have been primarily responsible for these formulas and recommendations, and that it is not going to be of any injurious effect whatsoever on the industry.

Mr. ANDRESEN. Would it not serve the same purpose if the manufacturer filed his formula with your State department or with the Federal Department?

Mr. COLTRAIN. Mr. Chairman, as I pointed out a while ago, our extension entomologists and pathologists say that that would put them in position of having to go to the control agency and getting a copy of the registration. Then they would have to carry that out, as they went to the farmers of the State, telling them that this brand is all right, the registration shows that it contains the ingredients that are necessary to do this job. But he said it might result in our having to tell the farmer the names of a hundred different brands, and possibly there would be 25 brands that we would not mention, and if we failed to mention some brand that was all right, we would have discriminated against that man.

But if, on the other hand, they could say to him, "Buy a product, an insecticide, which contains so much copper sulfate, so much sulfur," then they would not care what brand of insecticide he bought.

Mr. ANDRESEN. Do you have any other suggestions, Doctor?

Mr. COLTRAIN. Our new law has in it a provision providing for the issuance of stop-sale orders which I do not think would be amiss to include in this bill.

Mr. ANDRESEN. We thank you for your statement.

Mr. COLTRAIN. Thank you, Mr. Chairman.

Mr. ANDRESEN. The next witness is Mr. E. W. Constable.

STATEMENT OF E. W. CONSTABLE, STATE CHEMIST, STATE OF NORTH CAROLINA, RALEIGH, N. C.

Mr. CONSTABLE. Mr. Chairman, our assistant commissioner, Mr. Coltrain, has pretty well stated the position of North Carolina and the department of agriculture in this, so there is no need for me to take up time except for a moment to express my point of view as State chemist of North Carolina, that we are always in favor of uniformity in all of these laws. We have tried, as far as practical, to maintain uniformity in this law.

We have departed in some items, and we feel that that departure has been in the direction that others will sooner or later follow.

In this idea of cooperation, we are always ready and glad to cooperate with any agency of the State, Federal, or what not, and believe in carrying that cooperation right on through with the manufacturers and the consumers of all of these products, including insecticides.

One suggestion has been made in these registrations, that it would be an advantage if there were so uniform a method of a form of registering these insecticides so that it would not be different in this State from this one, we would be in favor of that, also, if anyone could find a combination to properly work out that.

Mr. ANDRESEN. Do you feel, as a scientist, that there is a need for some legislation of this kind?

Mr. CONSTABLE. Yes, sir.

Mr. ANDRESEN. To protect the public?

Mr. CONSTABLE. Yes, sir. From our point of view, at least, that seems to be obvious.

We consider that protection to the public also a protection to the sound manufacturer. We think he is the one who can get along without it.

Mr. ANDRESEN. We thank you for your statement.

Mr. CONSTABLE. Thank you, Mr. Chairman.

Mr. ANDRESEN. The next witness is Mr. Elliott Congleton.

STATEMENT OF ELLICOTT CONGLETON, APPEARING FOR B. T. BABBITT, INC., NEW YORK, N. Y.

Mr. CONGLETON. This is the first hearing of this sort that I have ever attended. I came here with an open mind, and I tried to keep my mind open, but some of the things I have heard certainly have scared me to death.

Mr. ANDRESEN. Whom do you represent?

Mr. CONGLETON. I represent B. T. Babbitt, Inc., in New York City, at 386 Fourth Avenue.

We manufacture lye. We manufacture lye and sell it for household use in 13-ounce cans.

The reason I am here is, about 25 years ago Colonel Haywood, who was connected with the Department of Agriculture, told me that lye inherently was an insecticide and therefore would have to be labeled in accordance with the Insecticide Act of 1910. Since then, the Federal Caustic Poison Act of 1927 was passed, and it is now labeled in accordance with that act also, and since then the Food, Drug, and Cosmetic Act was passed, and strange though it may seem, lye can be considered a food.

The Scandinavians make lutefish. Down south they make hominy, lye hominy, with it. They peel peaches with it, and they make pretzels with it.

After listening to the gentleman from North Carolina, I am aghast. He said that in his State, every brand of lye is registered at the rate of \$10 per brand per year. My company has been selling lye for over 75 years. We have 40 brands. We do not sell the 40 brands in every State. But, based upon the statement from the gentleman from North Carolina, if we did, it would cost us \$19,200 a year to register our brands of lye, which would be a prohibitive tax.

We are a comparatively small company, in spite of the fact that we are an old company.

When I first read this new bill, I thought to myself, that is a combination of the old Insecticide Act of 1910 plus the Federal Caustic Poison Act of 1927. But, after being here since 10 o'clock, I have made up my mind that it is more than that.

The act is being considered for two reasons: One, to keep the public from being cheated, and, two, to keep the public from being injured. When I say "injured," I mean poisoned by using an insecticide which is toxic.

It seems to me that great precautions have been taken to prevent the public from being cheated, and no matter what precautions you take, the public is going to be cheated anyhow, but you have taken very little precaution to prevent the public from being hurt.

The reason I say that, in this new act, or in this proposed act, you mention that if an insecticide is toxic, it shall be labeled "Poison," and also you state that proper antidotes shall appear on the label.

You also state that skull and crossbones shall appear on the label, but you do not say a word about the size of the type in which the word "Poison" must appear. To me, it is more important to prevent the public from being poisoned than it is from being cheated.

In the Federal Caustic Poison Act, it is stated that the letters in the word "Poison" must be as large as any other letter on the label, unless they are printed in 24-point uncondensed Gothic capital type.

I feel that if this act is passed, provision should be made in the act so that the word "Poison" is printed, typed conspicuously enough for people to see, and that the antidotes be right close to the word "Poison."

Insecticides are sold for household use, and they are also sold for use on the farm. When insecticides are sold for household use, they usually are put up in very small cans. Our can has a diameter of about 5 inches, and it is about four and a half inches high. There is not much space on that particular can, and already we are devoting one-quarter of the space on the label to complying with the various laws, and in warning the public to use our products carefully, in line with recommendations made to us by lawyers we have hired from time to time.

Women think differently from men. In this proposed bill, H. R. 1237, it mentions a display panel. If a man buys a can, I imagine that he looks at the front panel, or the display panel, carefully. If a woman buys a can, the woman is more interested in how to use the contents of the can and the directions than she is in the decorative matter, and in the name of the brand and the name of the manufacturer which appears on the front label.

For that reason, I think that for household use, perhaps it would be better to have the active ingredients of an insecticide appear on the side panel of the can rather than on the front panel of the can.

I did not mean to talk this long, and, as I say, I came here with an open mind. I had not spoken to anyone before I came here, and what I have said is based on many years of experience.

Mr. ANDRESEN. Have you had a fear that lye will come under the provisions of this act?

Mr. CONGLETON. Colonel Haywood told me 25 years ago that lye was inherently an insecticide, and we have been labeling our can with the active ingredients ever since. I imagine that under this act we will continue to comply with the same as we did under the old 1910 act.

Mr. ANDRESEN. So we can get the matter settled, let me ask Mr. Reed from the Department whether lye would come under the provisions of the act.

Mr. REED. Mr. Chairman, sometimes it does and sometimes it does not. If it is used as an insecticide, it is under the act.

Mr. ANDRESEN. I suppose then it would all depend on whether or not it was advertised for the purpose of being used for insecticide purposes.

Do you make any claims on your label that it can be used for an insecticide?

Mr. CONGLETON. On the label there is a claim which could be construed as insecticide, and that is, we say that if you sprinkle lye in garbage cans it will act as an aid in preventing flies breeding there. Aside from that, no insecticidal claims are made.

But inherently, according to Colonel Haywood, it is an insecticide.

Mr. ANDRESEN. Colonel Haywood has not been with us for a long time.

Mr. CONGLETON. I know that.

Mr. GRIFFIN. He died in 1929.

Mr. ANDRESEN. A lot of water has gone under the bridge since that time.

Do you know if the Department takes the position now that he did?

Mr. CONGLETON. The Department has not written us any letters in 10 years, I don't believe.

Mr. ANDRESEN. And you are still selling lye?

Mr. CONGLETON. We are still selling lye.

Mr. ANDRESEN. Is it the old Lewis lye?

Mr. CONGLETON. No, sir; that is made by the Pennsylvania Salt Manufacturing Co.

Mr. ANDRESEN. I sold thousands of pounds of lye and made also thousands of pounds of that lutefish you were talking about, and I never knew of anybody that got killed or poisoned from the fish, because it is thoroughly rinsed before they eat it. I do not eat the fish, however, but I have made it.

Mr. CONGLETON. I have eaten it. I do not like it, but I have eaten it.

Mr. ANDRESEN. You should have had some nice, good Minnesota butter with it, then you would have enjoyed it more.

Do you have any other suggestion to make?

Mr. CONGLETON. The only suggestion that I thought would be of much help was having the word "Poison" appear conspicuously on the label. But if you are going to have "Poison" conspicuously and have the antidotes conspicuously, and if you are going to have the formula conspicuously, you are not going to have much room left for directions.

Mr. ANDRESEN. Do you think this phrase is sufficient to cover it in the proposed legislation, on page 9 of the bill, (P), subparagraph 3:

The word "poison" prominently in red on a background of distinctly contrasting color.

Mr. CONGLETON. No, sir, it does not. That is slightly different from the Federal Caustic Poison Act of 1927, because the 1927 act says nothing about "in red." It just says "in contrasting color." But the 1927 act says that if the letters in the word "poison" are not as large as any other letters on the label, the letters must be printed in 24-point uncondensed Gothic capital type. And a type which is that large is sufficiently large so that you do not have to put on your glasses to see it.

Mr. ANDRESEN. Are there any questions, gentlemen?

We thank you for your statement.

Mr. CONGLETON. Thank you, Mr. Chairman.

Mr. ANDRESEN. Are there any other individuals present here who would like to be heard?

(No response.)

Mr. ANDRESEN. We have a proposed amendment, page 7, line 2:

Strike out the semicolon and insert the following: "*Provided*, That the Secretary may permit the ingredient statement to appear prominently on some other part of the container if the size or form of the container makes it impracticable to place it on the part of the retail package which is presented or displayed under customary conditions of purchase."

Is that amendment acceptable to those who appeared here this morning?

Is that acceptable to the Department?

Mr. REED. Yes, sir.

Mr. ANDRESEN. And to the different organizations that appeared here?

Mr. HICKENDORN. Mr. Chairman, I would like to raise a question with regard to that. Would that be permissible to show it on a folder that went with the insecticide if it did not have room for it on the label of the container?

Mr. ANDRESEN. My construction on this would be that it would have to be on the container.

Mr. HICKENDORN. It would have to be on the container?

Mr. ANDRESEN. Yes.

The other amendment over which there is probably some controversy, especially from North Carolina, would be on page 13, line 2, add the following:

The Secretary is authorized to cancel the registration of any economic poison at the end of a period of five years following the registration of such economic poison, or at the end of each five year period thereafter, unless the registrant prior to the expiration of each such five year period requests in accordance with regulation issued by the Secretary, that such registration be continued in effect.

That is substantially in accordance with the way Mr. George stated it, and as far as the Department is concerned, that is acceptable, Mr. Reed?

Mr. REED. Yes, sir.

Mr. ANDRESEN. I assume it is acceptable to others who are here.

Mr. Conner, do you have any other suggestion to make before we close the hearings?

Mr. CONNOR. No, sir, I do not, Mr. Andresen. Both of those amendments are satisfactory, and the bill, with those, I believe, would be in very good shape.

Mr. ANDRESEN. Mr. Hitchner, do you have any other suggestions?

Mr. HITCHNER. I would like to make one comment to clarify a point raised on the labeling, the poison label.

Many of the economic poisons are not poisons. Where they are poisonous, however, we not only come under the Federal and the State laws, but we also must comply with all of the State poison laws of each State, and they cover all poisonous items that are under the State poison laws, the same as we are under the Federal Act.

So that we believe that we are adequately protected with this provision on the poison requirement.

Mr. ANDRESEN. Mr. George, do you have any suggestions?

Mr. GEORGE. I would like to point out that under the bill as written, the question of how large the type should be, or the display of the poison legend, is a matter of regulation, and I feel certain that the Department of Agriculture will not set up regulations that are not properly protective of the public.

I would like to make one other general statement, and that is that I do not know how Congress could spend the amount of money it may take to enforce this new law, any better than in the enforcement of that act.

I feel that maybe the figures are a little bit high, and that possibly there is an element in those figures that comes from the fact that we have a large number of new organic insecticides which the Department has got to work on, and in which it has to have money to get the results the public deserves.

I would like to also express the attitude of my industry, and I think the other two groups that are here with us, that we have a large amount of confidence in the Agriculture Department as it is administered in respect to economic poisons, and that this bill seems to meet what that Department wants at the present time, and that if there are any inadequacies or shortcomings in this bill, that is a matter of future development and future action by Congress.

Mr. ANDRESEN. Mr. George, would you like to comment on the point raised by the gentleman from North Carolina with reference to publishing the ingredients on the label?

Mr. GEORGE. The only point I make there is that that is a matter of future progression. Practically every manufacturer of agricultural insecticide with whom these extension agents work are now doing that.

In the household insecticide field, for example, it is not so commonly done.

I feel that if you change this by striking out option 2, you would make this bill definitely controversial in many other units of the industry.

As I stated, I think there is a certain element of compromise in this legislation, and that at this time, as now drawn, it is the best bill that could be proposed by this Congress for enactment into law.

If there is any development in the future that brings people into the idea that there are advantages from a further disclosure on the label, those are matters for future development.

I do not think that scientifically, in the insecticide field, that the Department of Agriculture or the State departments or the scientific people in the insecticide industry, are in position for that kind of labeling.

Mr. ANDRESEN. Just one other point.

A question was raised on registration under protest.

Mr. GEORGE. I do not think that there will be any articles registered under protest that the Department is fairly confident should not be registered.

The power to refuse—by the way, under this type of act, if the Department does not want to register without protest, they force the claimant for registration into a protest position. And when he registers under that position, I think it throws enough doubt on his product so that that is not a very enviable position, and the result will be that the people who have products under protest will revise them to the extent that there will be no further protest, and they will be entitled to total registration.

I do not think that that is terribly important, except that in this new development, this new field, even these departments and their scientists, cannot always be correct. Of course, the manufacturers are not always correct.

I believe that at this time it is a very happy solution of the present situation, and that at this time I could not write a better bill than this. There may be developments later.

Mr. ANDRESEN. If some manufacturer would have a particular product protested when he registered, and the Department found that it was a spurious product, then the Department would be obligated to proceed against him.

Mr. GEORGE. I want to point out in that connection that the bill specifically provides that any registration, whether under protest

or not, is no green light for any product. If it has a regular registration, and scientific or other developments occur, out goes that registration.

The same thing with a protest registration. If it turns out that the protest was well-founded, it is merely a matter of a little while until the registration department has the facts by which the registration is revoked.

Mr. CONNER. Could I point out in connection with the registration under protest that I do feel that other provisions of the bill tie in with that in such a way that there is adequate protection for the consumer there.

The only reason for the registration under protest is to provide for an ultimate form of court review where there is a dispute between the registrant and the Department of Agriculture, as to whether a certain product does meet the requirements of this bill or not.

Assume that the registrant insists that his product does, and asks for a registration under protest. I think that is a very far-fetched case. But assume that he does, under section 9, the Department of Agriculture, if they felt that it was a product where there was any danger to the public involved at all, or if it was adulterated or in any other respect did not meet the provisions of the act, they could seize every pound of that before it ever reaches the market at all, just the moment the manufacturer takes it down or puts it in the process of shipment, or prepares it for shipment. Then they could seize it and it would never get to the point of reaching the market.

Mr. ANDRESEN. Mr. Reed, do you have any further observations to make?

Mr. REED. Nothing further, Mr. Chairman. Thank you.

Mr. ANDRESEN. The hearing will stand adjourned.

We want to thank you gentlemen for appearing.

(Thereupon, at 3:05 p. m., the hearing was adjourned.)

(The following report was submitted by the Department of Agriculture:)

MARCH 25, 1947.

HON. CLIFFORD R. HOPE,
*Chairman, House Committee on Agriculture,
House of Representatives.*

DEAR MR. HOPE: This is in reply to your request of January 27 for a report on H. R. 1237, to regulate the marketing of economic poisons and devices, and for other purposes.

In the 36 years that have elapsed since the passage of the Insecticide Act of 1910, the use of insecticides and fungicides has been greatly expanded so as to produce more and better crops. Many new materials have been introduced and new methods of application have been devised. The bill, H. R. 1237, which would replace the old act, is designed to meet present-day conditions more adequately. It includes the essential features of the original law and, in addition, expands its coverage and affords greater protection to users of economic poisons.

The more important new fields covered by the bill are the provisions for the control of rodenticides, weed killers, and preparations intended for use against other types of pests, as well as devices for pest control. The control of rodenticides is of major importance because the sale of weak and ineffective preparations has been so prevalent as to imperil rodent control programs. The importance of such programs can be appreciated when it is realized that the estimated damage by rats alone has amounted to about \$175,000,000 a year. The control of weed killers has become decidedly more important since the recent development of 2-4-D and other synthetic materials. Unless their use is carefully guarded they will do more damage than good.

Another important feature of the proposed legislation is the inclusion of provisions for the protection of the public against poisoning by requiring adequate

cautions on the labels of economic poisons and the coloring of certain white insecticides to prevent their being mistaken for flour, sugar, salt, baking powder, or other similar foods. Many accidental poisonings in recent years have resulted from lack of these precautions.

The bill provides for registration of economic poisons before their sale or introduction into commerce. This would have the effect of bringing new products to the immediate attention of the enforcement officials and, in most cases, would result in correct labeling being used from the beginning. It would tend to prevent damage or fraud rather than to rely only on legal action after the injury has occurred.

This bill, in most of its provisions, parallels and supplements the suggested uniform State insecticide, fungicide, and rodenticide act which has been developed by the Council of State Governments. It is highly important that the laws governing these products be consistent so that a manufacturer may have Nation-wide distribution of his products without having to have different labeling for each State.

There are a few features of this bill which could well be changed in the interests of more effective administration, better protection to the public, and clarification. They are as follows:

1. Page 2, line 6: Omit the words "or weeds." If retained, they would bring hoes, scythes, etc., under the control of the act as "devices," which seems unnecessary, and would not add anything which now appears to require control.

2. Page 5, section 2s: It is desirable that an additional provision reading "or (4) which contains directions for use" be added to this paragraph in order to bring within the scope of the law, misleading directions for use which may be distributed separately from the article. This change has been discussed with the chief trial counsel of the Federal Trade Commission and with a committee of the Commission on cooperation. They agreed on the desirability of the change and were of the opinion that it would not cause conflict with the Commission's activities.

3. Page 8, section 3. (a), line 4: As this provision presently reads the receiver of a product in interstate commerce will be prohibited from repacking it for intrastate distribution. This is a common and accepted practice. It would seem doubtful that it is the intent of Congress to prohibit such repacking as the constitutionality of such a prohibition is questionable and control of such transactions by State law is much more practicable. Due to the complicated nature of this section, it is difficult to make the change required to permit such repacking without rewriting the entire section. It may be, however, that the addition of the words "in the original unbroken package" after the word "deliver" on page 8, line 4, would accomplish the intended result although leaving something to be desired in the matter of draftsmanship. This language was used in H. R. 5645, Seventy-ninth Congress.

4. Page 9, line 16: The word "a" preceding the word "standard" should be deleted. The inclusion of such word would appear to be a typographical error.

5. Page 12, section 4: It would be desirable to require a reasonable fee for registration. The fee would greatly facilitate administration by tending to reduce to a minimum the number of articles submitted for registration, which there is no present intention to market. It would also serve to aid in defraying somewhat the administrative expenses in connection with registration. The bill provides for a single registration which remains effective indefinitely. It does not provide any method by which inactive registrations may be discarded. Reregistration at reasonable intervals or some similar device would be desirable for this purpose.

6. The words "or imprisoned for not more than 1 year, or both such fine and imprisonment" should be inserted on page 18, lines 18 and 23, after "\$1000." The Insecticide Act of 1910 provides for fine or imprisonment, or both, for a second offense. We believe that it would also be desirable to provide for imprisonment as an alternative penalty for failing to register (sec. 3a (1)). Otherwise the manufacturer or shipper of a product which did not meet the requirements of the act might be tempted not to register at all rather than to request registration under protest and risk the possibility of imprisonment.

It is believed that proper administration and enforcement of the responsibilities assigned to the Department of Agriculture by the bill would require approximately \$285,000 a year in addition to the amount appropriated for the administration of the act of 1910. This estimate contemplates that the Department would cooperate closely with State officials having responsibility for regulation of intrastate sales and shipments of economic poisons in order to permit joint utilization of services insofar as possible, promote uniformity as between Federal and State regulations, and keep the cost of enforcement at a minimum.

In view of the increased protection which the bill would afford to farmers and the public generally, this Department recommends that the bill be passed.

The Bureau of the Budget advises that "the enactment of the proposed legislation would not be in conflict with the program of the President if revised to provide registration fees or such other charges as would make the administration and enforcement of the proposed legislation as nearly self-supporting as possible."

Sincerely yours,

CLINTON P. ANDERSON, *Secretary.*

(The following statements were submitted:)

AMERICAN FARM BUREAU FEDERATION,
Washington, D. C., April 18, 1947.

HON. CLIFFORD R. HOPE,
*Chairman, Committee on Agriculture,
House of Representatives, Washington, D. C.*

MY DEAR CHAIRMAN HOPE: The board of directors of the American Farm Bureau Federation recently took action supporting the objectives of legislation to expand the protection afforded under the present Insecticide Act of 1910.

We believe the present act should be expanded to provide regulation of insecticides, fungicides, rodenticides, and devices which are not covered at the present time. Since 1910 there has been a very great change in commercial products of this nature, which should be subject to the act. New plant and synthetic chemicals developed by research are coming out at an ever-increasing rate, and due to lack of legal control, many of them are ineffective, and thus interfere with efforts which are being made to exterminate rodents, insects, and other pests. Unless there is effective control, farmers and others will continue to suffer great financial losses.

We believe legislation to protect farmers and other consumers of economic poisons is in the interest of public welfare, and wish to urge enactment of a law which will effect adequate control over them. I respectfully request that this letter be made part of the hearings on H. R. 1237.

Sincerely yours,

EDW. A. O'NEAL, *President.*

THE NATIONAL GRANGE,
Washington 6, D. C., April 8, 1947.

THE HONORABLE AUGUST H. ANDRESEN,
*Chairman, Subcommittee No. 1, House Agriculture Committee,
House of Representatives, United States, Washington 25, D. C.*

DEAR MR. ANDRESEN: The National Grange is an organization of farm families Nationwide in scope. An exceptionally large proportion of these families live in the sections of the Nation that are extensive users of insecticides, economic poisons, and devices. The Grange membership is vitally interested in the passage of H. R. 1237 introduced by you and now under consideration by your Subcommittee No. 1 of the House Agriculture Committee.

This letter is merely by way of reiterating the endorsement which Mr. Bailey of the National Grange gave of this measure when he appeared before your committee February 7, 1947.

I cannot qualify as a technical expert on the subject of insecticide, economic poisons, and devices, but wish to endorse wholeheartedly, for the Grange, the general purposes and provisions of this bill.

As we understand its purposes, it provides a modernization of the laws on this subject and is intended to protect farmers against adulterated and substandard products. The provisions of the bill also will more effectively protect the reputable manufacturers of dependable high-grade products.

The special requirements for labeling poisonous products that are mistakenly misused is also a highly desirable aim of the proposed bill. On this score, the Grange heartily endorses the provisions of the measure.

In general, therefore, we endorse the measure and trust that it will, at an early date, be enacted into law. For detail suggestions, we cannot be of any service to the committee and leave these to specialists in the field.

Sincerely yours,

J. T. SANDERS,
Legislative Counsel, the National Grange.

STATE NATURAL HISTORY SURVEY DIVISION,
Urbana, Ill., April 11, 1947.

COMMITTEE ON AGRICULTURE,
House of Representatives, Capitol Building,
Washington, D. C.

DEAR SIR: On behalf of the North Central States branch of the American Association of Economic Entomologists I am writing to you in regards to bill H. R. 1237. Our membership, which represents one-fourth of the entomologists in the United States, passed the following resolution:

Whereas H. R. 1237, known as Federal Insecticide, Fungicide, and Rodenticide Act, now under consideration by Congress, is much needed legislation and has been agreed upon by industry and responsible officials: be it

Resolved, That the North Central States branch of the American Association of Economic Entomologists, request its early enactment.

I hope this reaction from midwestern entomologists will speed the early passage of this bill.

Very truly yours,

J. W. APPLE,
Secretary-Treasurer, North Central States Branch of the American Association of Economic Entomologists.

FEBRUARY 8, 1947.

Congressman WALT HORAN,
House Office Building, Washington, D. C.

DEAR SIR: Enclosed is a copy of a letter very recently written to Congressman Hope regarding the economic poisons bill introduced as House bill 5645 into the seventy-ninth Congress.

Since the above was written, I have learned that House bill 1237 was introduced into the Eightieth Congress by Congressman Andresen on January 23. From a hasty scanning of this bill received from Mr. Lemmon, of California, I believe it is much like the proposed model State insecticide bill, and, in at least one respect, is not as strong as the earlier House bill 5645. On page 8, lines 13 to 16, in House bill 1237 there is a proviso that a change may be made in labeling or formula within a registration period. This is in direct contrast with the provision appearing in the Model State Fertilizer Act, and a question may be raised regarding the meaning of a registration or brand if the composition may be changed at any time by the registrant on a simple request to the Secretary.

I feel that House bill 1237 should be amended to require that the manufacturer guarantee and place on the label the percentage of each active ingredient contained in an economic poison and that the proviso on page 8, lines 13 to 16, should be eliminated and that the requirement for compulsory registration by the Secretary should at least be modified.

Very truly yours,

J. L. ST. JOHN,
Chairman of Division and State Chemist.

BOYLE-MIDWAY INC.,
New York 16, N. Y., February 14, 1947.

Hon. CLIFFORD R. HOPE, M. C.
Chairman, House Committee on Agriculture,
House Office Building, Washington, D. C.

DEAR SIR: Our attention has been drawn to H. R. 1237, a proposed Federal Insecticide, Fungicide, and Rodenticide Act, which is presently before your committee for consideration. As manufacturers of a large number of insecticides and fungicides, we feel that you would be interested in our comments on the bill as follows:

Section 2 (a) and (c): These definitions would include drugs intended for use on man, with possible conflict with the Federal Food, Drug, and Cosmetic Act and the jurisdiction of the Food and Drug Administration.

Section 2 (b): Under the definition for "device" would be included sprayers, guns, etc., when sold in combination with packages of economic poisons. Therefore, such combination packages would be subject to all of the labeling and registration provisions of the law. We do not feel that such is necessary or will

give additional protection to the consumer, but it will curtail the marketing of combination packages, particularly in special-sales programs adopted by retailers. We believe that the law should exempt such combination sales as long as the economic poison is properly labeled and registered.

Section 2 (f) and 2 (g): As we read these two sections together we feel that the act would prohibit us from calling a product a herbicide unless it would destroy, etc., "any plant which grows where not wanted." If this interpretation is correct, then the great bulk of the "2,4,D" products on the market today could not be called herbicides, and only substances which kill all plants could be properly so-called. Such is unduly restrictive. We believe that this difficulty can be cured by changing the last clause of section 2 (f) to read "or mitigating weeds"; and by changing the definition of weed in section 2 (g) to the following: "The term 'weed' means plants which grow where not wanted."

Section 2 (j): We find this section objectionable since it requires a complete revelation of formulas which, in many cases, contain substances developed by us which we do not wish to disclose. Under the present wording of this section competitors could adopt or imitate the formulas of the producer who has spent hundreds of thousands of dollars in research to improve his products. We are glad to reveal the name and percentage of any ingredient in the product which is toxic to man or which will leave a deleterious residue on food crops. We feel that the act should require only such since it would adequately protect the public.

Section 2 (t): In this section, or in some other section, we believe a provision should be inserted which would permit the manufacturer, distributor, or registrant to disclaim any responsibility for adulteration after the passage of a certain period of time. This is necessary in the case of those economic poisons which consist of ingredients which deteriorate with the lapsing of time.

Section 2 (u) (1): We have never understood what is meant by the expression "false or misleading in any particular." Such words are purely relative and some attempt should be made to fix a standard by which they may be judged. What is misleading or false to one person may not be to another. To what degree must the statements be false or misleading, or about what must they be so to cause the product to be misbranded?

Section 3 (a) (1): This section in effect prohibits the sale of economic poisons if "any of the claims made for it differ in substance from the representations made in connection with its registration." This can be interpreted to restrict all claims, including advertising and correspondence, to unamplified basic registration data. It is not our intention to make advertising claims which are out of all bounds with the true efficacy of the product but we do not wish to limit such to a recital of ingredient statements or directions which appear on the label when registered. Such interpretation would destroy the purpose of advertising and, consequently, we are opposed to it.

Section 3 (a) (3) (b): The wording of this section would prohibit the use of a label with a red background and would, consequently, injure and discriminate against those of us who have used such labels to the point where they are an aid in identifying our products to the consumer. We feel that this difficulty would be cured and the public equally served by adding the expression "or vice versa" at the end of the section.

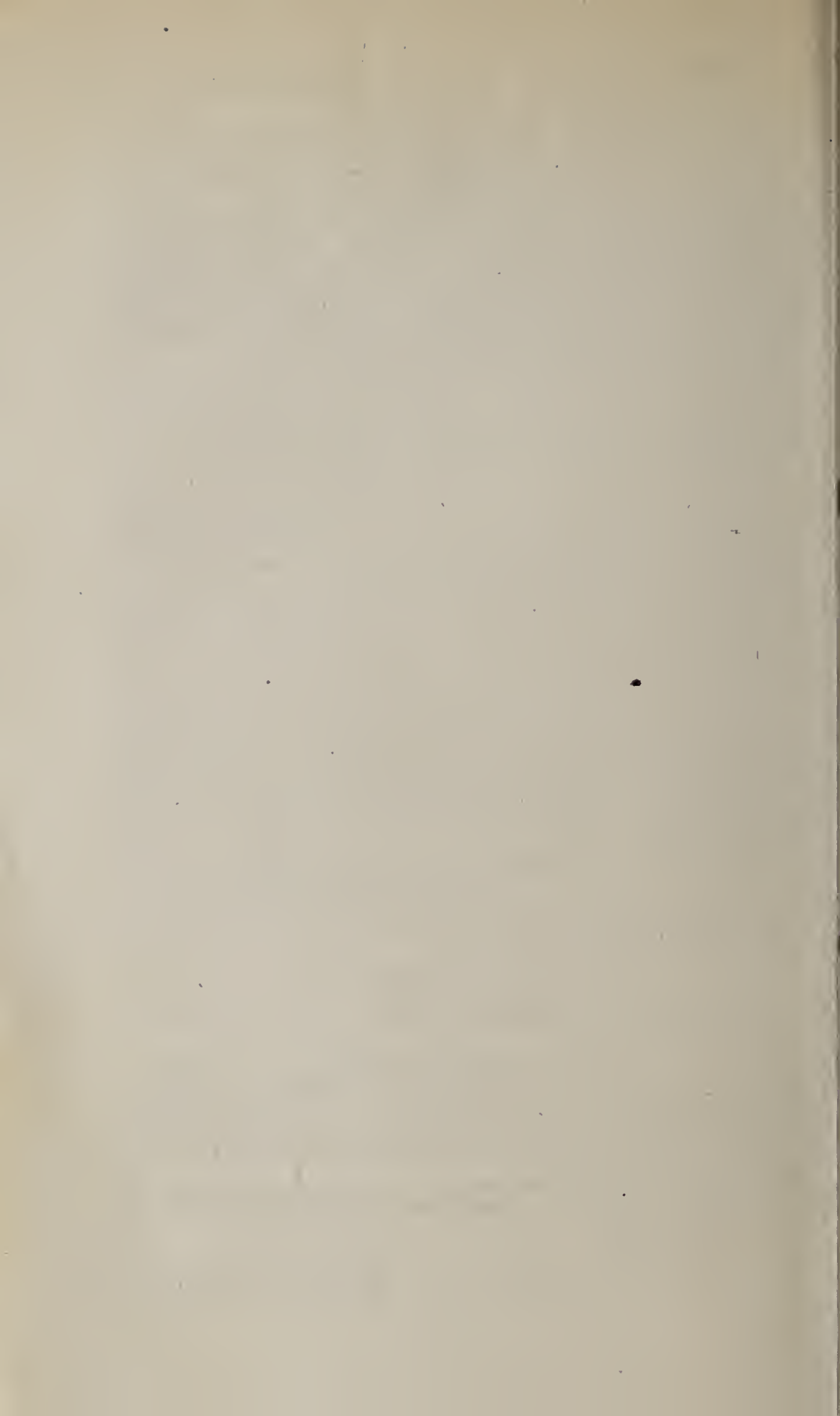
Section 4 (a) (3): This section requires, among other things, that the registration statement of the product include "a statement of all claims to be made for it." If this means that the manufacturer would be required to file copies of his advertising and trade correspondence in connection with registration of the product, we are opposed to it.

Section 4 (c): The last sentence of this section seems to permit the Secretary of Agriculture to lull a registrant into a false sense of security since it permits him to accept registration without comment and later on, after the manufacturer has relied on such acceptance, the latter may be charged with violations. It seems to us that if the Secretary has accepted the registration without protest and the label and the product conform with the registration data he should be estopped from charging violations against such.

We trust that you will give these comments consideration in the discussion of this bill before the Committee on Agriculture. Meanwhile, please accept our thanks for your courtesy.

Very truly yours,

BOYLE-MIDWAY, INC.,
EDWIN FREDERIC PIKE,
Vice President.



OFFICE OF BUDGET AND FINANCE
Division of Legislative Reports

(For administrative information only)

HEARINGS BEFORE THE SUB-COMMITTEE OF THE HOUSE AGRICULTURE COMMITTEE ON
H. R. 1237, TO REGULATE THE MARKETING OF RODENTICIDES, WEED KILLERS,
AND PEST-CONTROL DEVICES, APRIL 11, 1947.

Mr. H. E. Reed made a statement reiterating the material contained in the Secretary's Report on the bill. Representatives of the principal trade associations concerned with economic poisons expressed general approval of the bill as written, but objected to including advertising as labeling, to a registration fee, and to prison penalty for first offense under registration.

Mr. Garver, Secretary to Rep. Ellsworth, Oregon, discussed the requirement that the ingredient statement should be on the front panel of the label and an amendment was suggested to take care of this. There were several suggestions from State officials that the ingredient statement be strengthened to require full formula disclosure. Other amendments which were acceptable to the witnesses who were present included the following:

1. A revision of Section 6 to permit the Secretary to determine common names.
2. Addition to Section 4 of authority to cancel registrations after 5 years unless requested to continue them.

Mr. Chaney of the Department of the Interior expressed approval of the bill.

E. L. Griffin*
Livestock Branch, PMA

*In cooperation with the Division of Legislative Reports.

DIGEST OF
CONGRESSIONAL PROCEEDINGS
OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
Division of Legislative Reports.
(For Department staff only)

Issued April 21, 1947
For actions of April 18, 1947
80th-1st, No. 72

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HIGHLIGHTS. Senate received proposed CCC charter.

SENATE

1. COMMODITY CREDIT CORPORATION. Received the proposed CCC charter from this Department. To Banking and Currency Committee. (p. 3790.)
2. RURAL REHABILITATION. Received this Department's report on progress in liquidating the rural-rehabilitation projects. To Agriculture and Forestry Committee. (p. 3790.)
3. FOOD AND DRUGS. Received from the Federal Security Agency proposed legislation to provide for seizure of foods, etc., that become adulterated or misbranded while held for sale after interstate shipment. To Interstate and Foreign Commerce. (p. 3790.)
4. FOOT-AND-MOUTH DISEASE. Received a Kans. Legislature memorial favoring control of this disease in Mexico (p. 3790).
5. FOREIGN RELIEF. Continued debate on S. 938, the Greek-Turkish aid bill (pp. 3793-818).
6. RECLAMATION. Sen. Taylor, Idaho, inserted and discussed a letter from Lynn Crandall objecting to a provision in S. 972 prohibiting dual use of irrigation water (p. 3818).
7. ADJOURNED until Mon., Apr. 21 (p. 3818).

BILLS INTRODUCED

8. FLOOD CONTROL. S. 1128 and S. 1129, by Sen. Connally, Tex., to authorize a flood-control survey on certain areas in Tex. To Public Works Committee. (p. 3790.)
9. EFFICIENCY RATINGS. S. Res. 105, by Sen. Baldwin, Conn., authorizing the Civil Service Committee to investigate efficiency-rating systems. To Civil Service Committee. (p. 3791.)

(over)

HOUSE

NOT IN SESSION. Next meeting Mon., Apr. 21.

10. INSECTICIDE AMENIMENTS. A subcommittee of the Agriculture Committee ordered reported to the full committee H. R. 1237, regulating the marketing of economic poisons and devices (p. D136).

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COMMITTEE HEARINGS ANNOUNCEMENTS FOR APR. 21: H. Agriculture, general farm program (Anderson to testify); H. Appropriations, Interior appropriation bill (ex.); H. District of Columbia, daylight saving; H. Judiciary, unlawful monopolies; H. Public Lands, statehood for Alaska; H. Ways and Means, reciprocal trade agreements; S. Appropriations, First Deficiency Appropriation bill (ex.); S. Civil Service, Government cafeterias; S. Labor and Public Welfare, Federal aid to education; S. Banking and Currency, housing bill.

COMMITTEE HEARINGS Released by G.P.O.

11. POSTAL RATES. To investigate increases in postal rates, pursuant to S. Res. 43. S. Post Office and Civil Service Committee.
12. GOVERNMENT CAFETERIAS. Investigation of Government cafeteria system, pursuant to S. Res. 42. S. Post Office and Civil Service Committee.

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For supplemental information and copies of legislative material referred to, call Ext. 4654, or send to Room 113 Adm. Arrangements may be made to be kept advised, routinely, of developments on any particular bill.

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DIGEST OF
CONGRESSIONAL PROCEEDINGS
OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
Division of Legislative Reports
(For Department staff only)

Issued April 25, 1947
For actions of April 24, 1947
80th-1st, No. 77

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HIGHLIGHTS: Senate passed 1st deficiency appropriation bill, which includes various USDA items. Senate committee reported Taft-Wagner-Ellender housing bill, part of which would be administered by USDA. Senate ratified protocol continuing international sugar agreement. Senate committee agreed on revised civil-service retirement bill. House debated Interior appropriation bill. Rep. Boykin criticized REA's activities in Alabama.

SENATE

1. APPROPRIATIONS. Passed with amendments H. R. 2849, the first deficiency appropriation bill (pp. 4035-53). Sens. Bridges, Brooks, Gurney, Ball, McKellar, Hayden, and Tydings were appointed conferees (p. 4053). For items of interest to this Department, see Digest 74. Statements supporting school lunches (pp. 4044-50).
2. HOUSING. The Banking and Currency Committee reported without amendment S. 866, the Taft-Wagner-Ellender housing bill (S. Rept. 140)(p. 4015).

The bill: Establishes a National Housing Commission, to include a Coordinating Council of which the Secretary of Agriculture or his designee would be a member. The Commission would also include liaison and interagency committees. Provides that the Housing Administrator, with the advice and assistance of these entities, and in cooperation with the concerned departments, shall carry out the bill's objectives. Title IV provides for a housing-research program. Title X provides for financial assistance to farmers, through the Agriculture Department, to enable them to construct, alter, improve, repair, or replace dwellings and facilities incident to farm life; authorizes loans and grants under certain conditions; authorizes the Secretary to borrow from RFC, at not over 2½% interest, not over \$25,000,000 the first year, \$50,000,000 the second year, \$75,000,000 the third year, and \$100,000,000 the fourth year, to carry out the title. Title XI authorizes contributions for rural non-farm housing.

3. SUGAR AGREEMENT. Ratified Executive E, the protocol prolonging the international agreement regarding regulation of production and marketing of sugar (pp. 4060-2).
4. SURPLUS PROPERTY. On motion of Sen. Tobey, N. H., H. R. 2535, to authorize RFC to purchase and resell surplus property for small business, was taken from the calendar and referred back to the Banking and Currency Committee (p. 4018).

5. CENSUS. The Civil Service Committee reported with amendments S. 554, to provide for collection and publication of statistical information by the Census Bureau (S. Rept. 141)(p. 4015).
6. NOMINATION of Mr. Clapp to TVA Board was debated (pp. 4023-35, 4058-60).
7. LABOR-FEDERAL SECURITY APPROPRIATION BILL. The subcommittee completed "marking up" this bill, H. R. 2700, and is to present it to the full committee at the next meeting (p. D160).
8. CIVIL-SERVICE RETIREMENT. The Civil Service Committee, by an 8-1 vote, ordered reported a revised print of S. 637, to liberalize the civil-service retirement system. For main provisions of the bill, see Digest 56. The major changes are as follows: (1) It provides an option for employees with 5 years service who are separated involuntarily similar to that provided for those with 10 years or more service in S. 637; (2) it provides for payment of interest to those involuntarily separated under 5 years; (3) provisions 1 and 2 are not granted to those who are voluntarily separated; and (4) it changes the age in the previous print from 65 to 62 for those separated from the service who elect to receive a deferred annuity. (p. D160.)
9. MISSOURI VALLEY AUTHORITY. S. 1156, to provide for an MVA, was referred to the Public Works Committee (pp. 4013-4).
10. COMMITTEE NAME. S. Res. 99 (see Digest 72), to change the name of the Senate Civil Service Committee to "Committee on Post Office and Civil Service" is effective Jan. 1, 1948.

HOUSE

11. INTERIOR APPROPRIATION BILL, 1948. Began debate on this bill, H. R. 3123 (pp. 4067-4124). Reclamation, flood control, and electrification projects were discussed throughout the debate.
During the debate, Rep. Sabath, Ill., criticized high prices, blamed them on the removal of price controls, and inserted tables showing profits of major meat-packing plants for 1945 and 1946 (pp. 4069-70).
12. RURAL ELECTRIFICATION. Rep. Boykin, Ala., criticized REA's activities in Ala., charged that the construction of rural lines has been sacrificed to other projects, and inserted numerous letters from constituents on the subject (pp. 4126-30).
13. RECLAMATION. Received from the Interior Department a proposed bill to authorize an emergency fund for the Bureau of Reclamation to assure the continuous operation of its irrigation and power systems (p. 4130).
Rep. Murdock, Ariz., criticized appropriation cuts for reclamation activities (pp. 4066-7).
14. INSECTICIDE MARKETING. The Agriculture Committee ordered reported H. R. 1237, to regulate the marketing of insecticides, rodenticides, weed-killers, etc. (p. D162). Copies of the bill and report will not be available until the bill is actually reported.
15. SMALL BUSINESS. Agreed to a resolution making available \$60,000 for the Small Business Committee to continue its study and investigation of the problems of small business (p. 4066).

CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
Division of Legislative Reports
(For Department staff only)

Issued April 28, 1947
For actions of April 25, 1947
80th-1st, No. 78

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HIGHLIGHTS: House passed Interior appropriation bill. House sent 1st deficiency appropriation bill to conference. House committee reported bill to regulate marketing of economic poisons and devices. House committee reported bill to amend Veterans' Preference Act. Senate committee reported omnibus civil-service retirement bill.

HOUSE

1. APPROPRIATIONS. Passed, 307-30, with amendments H. R. 3123, the Interior Department appropriation bill (pp. 4161-235). Much of the debate was on reclamation and electrification items.
Reps. Taber, Wigglesworth, Engel of Mich., Stefan, Case of S. Dak., Keefe, Cannon, Kerr, and Mahon were appointed conferees on H. R. 2349, the first deficiency appropriation bill (p. 4235). Senate conferees were appointed Apr. 24.
2. MARKETING. The Agriculture Committee reported with amendment H. R. 1237, to regulate the marketing of economic poisons and devices (H. Rept. 313)(p. 4237).
3. MINERALS. The Public Lands Committee reported with amendments H. R. 2455, to establish a National Minerals Resources Division (H. Rept. 311)(p. 4236).
4. FOREIGN RELIEF. The Foreign Affairs Committee reported with amendments H. R. 2616, the Greek-Turkish aid bill (H. Rept. 314)(p. 4237).
5. PERSONNEL. The Post Office and Civil Service Committee reported with amendment H. R. 966, to amend Sec. 14 of the Veterans' Preference Act (H. Rept. 315)(p. 4237).
6. FLOOD CONTROL. Received several flood-control survey reports from the War Department (H. Docs. 220, 221, 222); to Public Works Committee (p. 4236).
7. ADJOURNED until Mon., Apr. 28 (p. 4236). Today's program is the bill for relief of war-devastated areas and the daylight-saving bill (p. 4267).

SENATE

8. CIVIL-SERVICE RETIREMENT. The Civil Service Committee reported with amendments

S. 637, the omnibus retirement bill (S.Rept. 143) (p. 4134).

9. SCHOOL-LUNCH PROGRAM. Sen. Capper, Kans., inserted Mrs. Dwight W. Morrow's telegram favoring appropriation of funds for this program (p. 4134).
10. RECLAMATION; APPROPRIATIONS. Received from the Interior Department proposed legislation to authorize an emergency fund for the Bureau of Reclamation to assure continuous operation of its irrigation and power systems; to Public Lands Committee (p. 4133).
11. PRICES. Sen. Lodge, Mass., commended the Newburyport price-reduction plan (p. 4135).
12. APPROPRIATIONS. Sen. Williams, Del., criticized Interior Secretary Krug's statement relating to personnel reductions in view of reduced appropriations (pp. 4135-6).
Sen. Johnson, Colo., urged that the need for funds for Labor Department and Federal Security Agency be met "realistically" (pp. 4159-60).
13. LABOR. Continued debate on S. 1126, the labor-relations bill (pp. 4136-8, 4139-46, 4148-59).
14. RECESSED until Mon., Apr. 28 (p. 4160).

BILLS INTRODUCED

15. FLOOD CONTROL; SOIL CONSERVATION. H.R. 3216, by Rep. Cole, N.Y., to authorize a preliminary examination and survey of the upper Susquehanna River watershed in N.Y. and Pa. for run-off and water-flow retardation, and soil-erosion prevention. To Public Works Committee. (p. 4237.)
16. RECLAMATION; APPROPRIATIONS. H.R. 3218, by Rep. Welch, Calif., to authorize an emergency fund for the Bureau of Reclamation to assure the continuous operation of its irrigation and power systems. To Public Lands Committee. (p. 4237.)
17. EDUCATION; H.R. 3220, by Rep. Blatnik, Minn., to authorize the appropriation of funds to assist the States in more nearly equalizing educational opportunities. To Education and Labor Committee. (p. 4237.)

ITEMS IN APPENDIX

18. PRICES. Sen. Capper, Kans., inserted former Gov. Alf Landon's address on how to cut prices (pp. A2015-7).
Rep. Bates, Mass., inserted a Washington Post article reporting on the Newburyport price-reduction plan (pp. A2030-1).
Rep. Murray, Wis., inserted a New York Times editorial, "Prices and Profits" (pp. A2033-4).
19. LAND POLICY. Rep. Miller, Calif., inserted a San Francisco News article, "Farm Bureau Members Split on CVP Land Policy" (pp. A2023-4).
20. TRADE AGREEMENTS. Rep. Reed, N.Y., inserted Arthur Besse's (Nat'l. Assoc. of Wool Manufacturers) statement before the Ways and Means Committee on the value of trade agreements and an International Trade Organization (pp. A2028-30).
21. FOOD PRICES. Extension of remarks of Rep. Murray, Wis., discussing a Washington Post editorial which criticizes the price-support program and the high cost of food (pp. A2032-3).

ferred to the Committee of the Whole House on the State of the Union.

Mr. HOPE: Committee on Agriculture. H. R. 1237. A bill to regulate the marketing of economic poisons and devices, and for other purposes; with amendment (Rept. No. 313). Referred to the Committee of the Whole House on the State of the Union.

Mr. EATON: Committee on Foreign Affairs. H. R. 2616. A bill to provide for assistance to Greece and Turkey; with amendments (Rept. No. 314). Referred to the Committee of the Whole House on the State of the Union.

Mr. VURSELL: Committee on Post Office and Civil Service. H. R. 966. A bill to amend section 14 of the Veterans' Preference Act of June 27, 1944 (58 Stat. 387); with amendment (Rept. No. 315). Referred to the Committee of the Whole House on the State of the Union.

Mr. MORTON: Committee on Post Office and Civil Service. H. R. 1203. A bill to provide compensation to persons performing the duties of postmasters at post offices of the fourth class during annual and sick leave of the postmasters; with amendment (Rept. No. 316). Referred to the Committee of the Whole House on the State of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. GRAHAM: Committee on the Judiciary. H. R. 1742. A bill for the relief of Mary Lomas; with amendment (Rept. No. 307). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BEALL:

H. R. 3208. A bill to permit the use of appropriations of the National Capital Housing Authority for the maintenance and operation of buildings and grounds used for nurseries and nursery schools established by the Board of Public Welfare of the District of Columbia within projects under the jurisdiction of such Authority; to the Committee on the District of Columbia.

By Mr. JENNINGS:

H. R. 3209. A bill for the relief of persons or their legal heirs or administrators against whom suits have been brought or assessments made by the Price Administrator under the provisions of section 205 (a) of the Emergency Price Control Act of 1942, approved January 30, 1942 (56 Stat. 23), and who have paid the United States Government treble penalty as provided therein; to the Committee on the Judiciary.

By Mr. SMATHERS:

H. R. 3210. A bill to reduce juvenile delinquency by providing for the care and prompt return home of run-away, transient, or vagrant children of juvenile age, going from one State to another without proper legal consent, through the use of funds appropriated under the provisions of the Social Security Act for aid to dependent children,

under certain conditions; to the Committee on Ways and Means.

By Mr. HOFFMAN:

H. R. 3211. A bill to make unlawful certain acts in connection with picketing in the District of Columbia; to the Committee on the District of Columbia.

By Mr. COLE of New York:

H. R. 3212. A bill to amend section 3360 of the Internal Revenue Code; to the Committee on Ways and Means.

By Mr. VAN ZANDT:

H. R. 3213. A bill to authorize the promotion of personnel of the Army, Navy, Marine Corps, and Coast Guard who were prisoners of war; to the Committee on Armed Services.

By Mr. ROBSION:

H. R. 3214. A bill to revise, codify, and enact into law title 28 of the United States Code entitled "Judicial Code and Judiciary"; to the Committee on the Judiciary.

By Mr. ANDREWS of New York:

H. R. 3215. A bill to revise the Medical Department of the Army and the Medical Department of the Navy, and for other purposes; to the Committee on Armed Services.

By Mr. COLE of New York:

H. R. 3216. A bill to authorize a preliminary examination and survey of the upper Susquehanna River watershed in New York and Pennsylvania for run-off and water-flow retardation, and soil-erosion prevention; to the Committee on Public Works.

By Mr. WINSTEAD:

H. R. 3217. A bill to amend the Atomic Energy Act of 1946; to the Joint Committee on Atomic Energy.

By Mr. WELCH:

H. R. 3218. A bill to authorize an emergency fund for the Bureau of Reclamation to assure the continuous operation of its irrigation and power systems; to the Committee on Public Lands.

By Mr. DONDERO:

H. R. 3219. A bill to authorize the Federal Works Administrator or officials of the Federal Works Agency duly authorized by him to appoint special policemen for duty upon Federal property under the jurisdiction of the Federal Works Agency, and for other purposes; to the Committee on Public Works.

By Mr. BLATNIK:

H. R. 3220. A bill to authorize the appropriation of funds to assist the States in more nearly equalizing educational opportunities among and within the States by establishing a national floor under current educational expenditures per pupil in average daily attendance at public elementary and secondary schools and by assistance to nonpublic tax-exempt schools of secondary grade or less for necessary transportation of pupils, school health examinations and related school health services, and purchase of nonreligious instructional supplies and equipment, including books; to the Committee on Education and Labor.

By Mr. HAVENNER:

H. R. 3221. A bill to declare Parsees as persons of white race; to the Committee on the Judiciary.

By Mr. HARRIS:

H. R. 3222. A bill relating to actions brought on behalf of the United States to enforce civil liability, under the Emergency Price Control Act of 1942, on account of overcharges in the sale of commodities; to the Committee on Banking and Currency.

By Mr. GRANT of Indiana:

H. J. Res. 183. Joint resolution to authorize the issuance of a special series of stamps com-

memorative of the two hundredth anniversary of the birth of Gen. Casimir Pulaski; to the Committee on Post Office and Civil Service.

H. J. Res. 184. Joint resolution to authorize the coinage of 50-cent pieces in commemoration of the two hundredth anniversary of the birth of Gen. Casimir Pulaski; to the Committee on Banking and Currency.

MEMORIALS

Under clause 3 of rule XXII, memorials were presented and referred as follows:

By the SPEAKER: Memorial of the Legislature of the State of Michigan, memorializing the President and the Congress of the United States to ratify the proposed amendment to the Constitution of the United States relating to the terms of office of the President; to the Committee on the Judiciary.

Also, memorial of the Legislature of the Territory of Hawaii, memorializing the President and the Congress of the United States to approve the present granting of extensions of leases for a term to expire March 31, 1967, to the present lessees at the original rentals; to the Committee on Public Lands.

Also, memorial of the Legislature of the State of Minnesota, memorializing the President and the Congress of the United States to establish a national cemetery at Birch Coulee Battlefield, in Renville County, Minn.; to the Committee on Public Lands.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. COUDERT:

H. R. 3223. A bill for the relief of John Arethas; to the Committee on the Judiciary.

By Mr. KEATING:

H. R. 3224. A bill to authorize the cancellation of deportation proceedings in the case of Frank Durante and wife, Maria Durante, and two children, namely, Paul Durante and Patsy Durante; to the Committee on the Judiciary.

By Mr. McDONOUGH (by request):

H. R. 3225. A bill for the relief of Anna Pechnik; to the Committee on the Judiciary.

By Mr. SMATHERS:

H. R. 3226. A bill for the relief of Thomas M. Bates; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

378. By Mrs. NORTON: Petition of New Jersey State Patrolmen's Benevolent Association, urging the enactment of S. 715, a bill to amend the Civil Service Retirement Act of May 29, 1930, as amended, to provide annuities for investigatory personnel of the Federal Bureau of Investigation who have rendered at least 20 years of service; to the Committee on Post Office and Civil Service.

379. By Mr. LYNCH: Petition of Bronx Zionist region, Zionist Organization of America, New York, N. Y., urging immediate large-scale Jewish immigration into Palestine; to the Committee on Foreign Affairs.

RELATING TO THE MARKETING OF ECONOMIC POISONS AND DEVICES

APRIL 25, 1947.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. HOPE, from the Committee on Agriculture, submitted the
following

REPORT

[To accompany H. R. 1237]

The Committee on Agriculture, to whom was referred the bill (H. R. 1237) to regulate the marketing of economic poisons and devices, and for other purposes, having considered the same, report thereon with a recommendation that it do pass, with the following amendments:

Page 2, line 6, strike out the words "or weeds".

Page 6, line 11, strike out the word "instructions" and insert in lieu thereof the word "directions".

Page 7, line 2, strike out the semicolon and insert in lieu thereof a colon and add the following:

Provided, That the Secretary may permit the ingredient statement to appear prominently on some other part of the container, if the size or form of the container makes it impracticable to place it on the part of the retail package which is presented or displayed under customary conditions of purchase.

Page 8, line 4, insert after the phrase "deliver or offer to deliver" the following: "in the original unbroken package"; and insert a comma after the word "person".

Page 9, line 16, strike out the article "a".

Page 14, line 14, insert a new subsection e. as follows:

e. The Secretary is authorized to cancel the registration of any economic poison at the end of a period of five years following the registration of such economic poison or at the end of any five-year period thereafter, unless the registrant, prior to the expiration of each such five-year period, requests in accordance with regulations issued by the Secretary that such registration be continued in effect.

Page 15, line 15, strike out the period after the word "Act" and insert the following: "and the determination and establishment of suitable names to be used in the ingredient statement."

Page 18, line 22, strike out the word "of" and insert in lieu thereof the word "for".

Page 18, line 23, insert after the figures "\$1,000" and before the colon the following: "or imprisoned for not more than one year, or both such fine and imprisonment".

Page 24, line 4, insert after the word "official" the following: "agricultural or other".

STATEMENT

The accompanying bill is intended to replace and expand the protection afforded by the present Insecticide Act of 1910. That law was enacted at a time when insecticides and fungicides were comparatively simple, consisting largely of paris green, pyrethrum, bordeaux mixture, and similar materials. Rodenticides and herbicides were not then marketed to any great extent.

Since 1910 great changes have occurred in the field of economic poisons, and the present law is now inadequate. New plant materials and synthetic chemicals developed through research by both private industry and the Government have greatly increased the number of economic poisons and the scope of their usefulness. An important example at the present time is DDT (dichlorodiphenyltrichloroethane), which is revolutionizing many phases of the insecticide industry. Herbicides are becoming increasingly important in the control and eradication of weeds as the result of the recent development of 2-4-dichloro-phenoxy-acetic acid and other synthetic materials.

This bill embraces, in addition to insecticides and fungicides, rodenticides, herbicides, devices and preparations intended to control other forms of pests which are not subject to the present Insecticide Act of 1910. Rodenticides are being marketed in large quantities and many of them are weak and ineffective and have tended to imperil various rodent-control programs. The importance of rodenticides can readily be appreciated when it is realized that the estimated damage by rats alone has amounted to some \$200,000,000 annually.

Other important improvements and changes over the present law which would be provided by this bill are as follows:

(1) A provision requiring the registration of economic poisons prior to their sale or introduction into interstate or foreign commerce.

(2) The inclusion of provisions for protection of the public against poisoning by requiring prominently displayed poison warnings on the labels of highly toxic economic poisons.

(3) A provision requiring the coloring or discoloring of dangerous white powdered economic poisons to prevent their being mistaken for flour, sugar, salt, baking powder or other similar articles commonly used in the preparation of foodstuffs.

(4) A requirement that warning or caution statements be contained on the label of the economic poison to prevent injury to living man, other vertebrate animals, vegetation, and useful invertebrate animals.

(5) A provision requiring instructions for use to provide adequate protection for the public.

(6) A provision declaring economic poisons to be misbranded if they are injurious to man, vertebrate animals, or vegetation, except weeds, when properly used.

(7) A provision requiring information to be furnished with respect to the delivery, movement, or holding of economic poisons and devices.

One of the principal provisions of the bill is the one providing for the registration of economic poisons prior to their being marketed. It is

believed that this provision will provide additional protection for the public, assist manufacturers in complying with the provisions of the bill, and at the same time hold administrative costs to a minimum. Under the existing law, the Administrator has no means of ascertaining or knowing what economic poisons are being marketed, except by having a force of inspectors circulating through the country picking up samples here and there, wherever they may be found. Frequently, serious damage is suffered by agricultural producers and other users of economic poisons through the use of misbranded or adulterated economic poisons before the enforcement officials have any knowledge of the existence of such articles, or of their being offered to the public. Under this bill, any economic poison subject to the provisions thereof will be brought to the attention of the enforcement officials who will have an opportunity to become familiar with the formula, label, and claims made with respect to any such economic poison before it is offered to the public. It should be possible, therefore, in a great majority of instances, to prevent false and misleading claims, and to prevent worthless articles from being marketed, and to provide a means of obtaining speedy remedial action if any such articles are marketed. Thus, a great measure of protection can be accorded directly through the prevention of injury, rather than having to resort solely to the imposition of sanctions for violations after damage or injury has been done. Registration will also afford manufacturers an opportunity to eliminate many objectionable features from their labels prior to placing an economic poison on the market.

The bill in most of its provisions is in accord with and supplements the provisions of the proposed uniform State Insecticide, Fungicide, and Rodenticide Act which has been recommended for adoption by the Council of State Governments. It is believed that the enactment of this bill will greatly facilitate the coordination of work in this field among the States and with the Federal Government. It is highly desirable that laws governing economic poisons be as nearly uniform as possible consistent with the need for the protection of the public, so that manufacturers may have Nation-wide distribution with a minimum of conflict between the labeling requirements of the various laws.

ANALYSIS OF THE BILL

Section 1: The act may be cited as the "Federal Insecticide, Fungicide, and Rodenticide Act."

Section 2: This section contains definitions. Included under the term "economic poison" are preparations intended for use against insects, rodents, fungi, weeds, and other forms of plant or animal life or viruses which the Secretary of Agriculture may declare to be a pest. The term "device" means any instrument or contrivance intended for use against insects, rodents, or fungi, or other pests which may be designated as such by the Secretary but does not include equipment used for the application of economic poisons when sold separately therefrom.

The term "rodenticides" would include not only preparations for the control of animals ordinarily known as rodents, but also those suitable for the control of any vertebrate animal which the Secretary might declare to be a pest.

The term "ingredient statement" includes either a statement of the name and percentage of each active ingredient, together with the total

percentage of the inert ingredients, or a statement of the name of each active ingredient, together with the name of each and the total percentage of the inert ingredients, except that when the product contains a material which is highly toxic to man the first alternative must be used.

The term "label" as used in the bill refers not only to the printed matter on the immediate container of the economic poison or device, but also on the outside container or wrapper of the retail package in which it may be packed.

The term "labeling" includes the label, as well as any printed matter accompanying the economic poison at any time. It also includes any written matter to which reference is made on the label, or literature accompanying the economic poison or device, except references to current official publications of the United States Departments of Agriculture and Interior, the United States Public Health Service, State experiment stations, State agricultural colleges, and other similar Federal or State institutions or agencies authorized by law to conduct research in the field of economic poisons.

"Misbranding" as used in this bill includes essentially the same elements as are included under the present Insecticide Act of 1910, but in addition thereto an economic poison is misbranded if it bears any reference to registration under the act, if the label does not contain instructions for use which are necessary and adequate for the protection of the public, or if it does not bear an adequate warning or caution statement. Any reference to registration is required to be omitted from the label, because such reference might be construed as an endorsement of the article by the Department of Agriculture and the bill specifically provides that registration may not be construed as a defense for the commission of any offense prohibited by the act. Under the provisions of the bill an article is misbranded if the label does not bear an ingredient statement on that part of the retail package which is presented or displayed under customary conditions of purchase, but the Secretary is authorized to permit ingredient statements to appear prominently on some other part of the container if he deems it impracticable to have such statement placed on the part of the container which is presented or displayed under customary conditions of purchase.

An economic poison which causes injury to plants is now declared to be misbranded instead of adulterated, and this provision has been broadened to include injuries to living man or other vertebrate animals.

Section 3: The prohibited acts include the marketing of any economic poison which is not registered, or which contains any claim or claims made for it or any directions for its use which differ in substance from the representations made to the Secretary of Agriculture at the time of the product's registration, or if the product's composition differs from the composition represented for it to the Secretary of Agriculture at the time of registration, or the label of which does not bear the name and address of the manufacturer, registrant, or person for whom manufactured, the name, brand or trade-mark under which the article is sold and the net weight or measure of the content. In addition, labels on certain highly toxic substances must bear the skull and crossbones, the word "poison", and an antidote statement; and certain white powdered economic poisons are required to be colored or discolored to avoid their being mistaken for food products.

Provisions similar to those of the present act prohibiting the shipment of adulterated or misbranded economic poisons are continued in effect. Devices must not be misbranded.

Detaching, altering, destroying or defacing labels in a manner that may defeat the purpose of the act, or the refusal to give certain information relative to interstate shipment of economic poisons, or the giving of false guaranties are prohibited. The disclosure of certain information furnished confidentially by a manufacturer, except to certain authorized persons, is also prohibited.

The committee amendment adding the words "in the original unbroken package" after the phrase "deliver or offer to deliver" on page 8, line 4, in section 3 (a) is intended to eliminate any question as to the constitutionality of that section. As the language read it would prohibit the resale of any economic poison which has been received in interstate commerce unless it is sold in the manufacturer's unbroken immediate container. The effect of the change will be to make unlawful the resale in the original unbroken package of an economic poison received in interstate commerce unless the provisions of the section are complied with, but to exclude from the requirements of such section resales of such economic poisons after repackaging.

Section 4: Registration is required for every economic poison. If the labeling or the article does not appear to comply with the provisions of the act, the person seeking to register the article is to be notified to that effect and given an opportunity to make necessary modifications. This will probably result in immediate correction in the majority of instances. However, if the registrant insists that no modifications are necessary, the article may be registered under protest, in which case the registrant will be subject to additional penalties if found guilty of violating provisions of the Act. In no event, however, is registration intended to give immunity for a violation, since registration is essentially a device to bring to the attention of the Secretary of Agriculture the economic poisons which are being marketed, their composition, and the claims made therefor. It is not intended that registration should relieve a manufacturer from the responsibility of seeing that his product is all that he represents it to be. The Secretary is authorized to cancel the registration of any economic poison at the end of a period of 5 years following the registration thereof, or at the end of any 5-year period thereafter, unless the registrant prior to the expiration of each such 5-year period requests in accordance with regulations issued by the Secretary that the registration be continued in effect. This provision will have the effect of keeping registrations up to date.

Section 5: This section authorizes limited examination of books and records. It is similar to a provision contained in the Federal Food, Drug, and Cosmetic Act.

Section 6: This section authorizes the Secretary of Agriculture to make such rules and regulations as may be necessary for the effective administration and enforcement of the act, including the determination and establishment of suitable names to be used in ingredient statements. In addition thereto, it authorizes the Secretary, after opportunity for hearing, to include as pests any form of plant, animal life or virus which is injurious to plants, man, domestic animals, articles, or substances in addition to those specifically included under the definition of economic poison; to determine the substances which

are highly toxic to man when contained in economic poisons; and to determine standards of coloring or discoloring for economic poisons. Other provisions of this section are similar to those contained in the Insecticide Act of 1910.

Section 7: This section makes provision for exemption for any person who establishes a guaranty to the effect that the economic poison complies with the provisions of the act. It also exempts from penalties carriers who comply with provisions of the act, public officials in the performance of their official duties, and shippers of economic poisons for experimental use by or under the supervision of certain Federal or State agencies, or by others who obtain permits for such shipments.

Section 8: This section provides penalties for violations of the act.

Section 9: The provisions providing for seizures are substantially similar to the provisions of the Insecticide Act of 1910.

Section 10: This section relates to imports and is substantially the same as the provisions contained in the present law.

Section 11: This section authorizes the Secretary of Agriculture to delegate his authority under this bill to any employee of the Department of Agriculture.

Section 12: This section contains an authorization for appropriations and expenditures for the administration and enforcement of the act.

Section 13: This section authorizes the Secretary of Agriculture to cooperate with other Federal governmental agencies, and with official agricultural or other regulatory agencies of States or Territories, or other political subdivisions, in carrying out the provisions of the act, and in securing, as far as possible, uniformity of regulations among all such agencies.

Section 14: This section contains the usual separability clause.

Section 15: This section sets forth the date upon which the various sections become effective. The sections take effect at different times in order to permit the holding of hearings, the preparation of regulations, and such other administrative action as may be necessary. Under certain circumstances, the Secretary is authorized to exempt for a limited period particular economic poisons from the provisions of the act.

Section 16: This section provides for the repeal of the Insecticide Act of 1910, but contains a saving clause for the purpose of sustaining any proper suit, action or other proceeding with respect to violations of that act.

CONCLUSION

In conclusion it should be stated that the record before this committee demonstrates remarkable unanimity of opinion among farm organizations, industrial groups, entomologists, and Government officials, showing the need for legislation of this character. This bill has been considered by representatives of the Agricultural Insecticide and Fungicide Association; the National Association of Insecticide and Disinfectant Manufacturers, Inc.; the American Association of Economic Entomologists; the National Association of Commissioners, Secretaries, and Directors of Agriculture; the American Farm Bureau Federation; the National Grange; the National Council of Farmer Cooperatives; the International Apple Association; the Inter-State Manufacturers Association; the Pacific Insecticide Institute; the

Farmers Education and Cooperative Union of America; the Department of Agriculture; the Department of the Interior, and by others. These organizations are strongly in favor of new legislation in this field and in the main are in accord with the bill as written.

In compliance with clause 2a of rule XIII of the House of Representatives, there is set forth below in black brackets the entire text of the Insecticide Act of 1910 (36 Stat. 331, 7 U. S. C. 121-134), which this bill would repeal:

[Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be unlawful for any person to manufacture within any Territory or the District of Columbia any insecticide, paris green, lead arsenate, or fungicide which is adulterated or misbranded within the meaning of this act; and any person who shall violate any of the provisions of this section shall be guilty of a misdemeanor, and shall, upon conviction thereof, be fined not to exceed two hundred dollars for the first offense, and upon conviction for each subsequent offense be fined not to exceed three hundred dollars, or sentenced to imprisonment for not to exceed one year, or both such fine and imprisonment, in the discretion of the court.

[SEC. 2. That the introduction into any State or Territory or the District of Columbia from any other State or Territory or the District of Columbia, or from any foreign country, or shipment to any foreign country, of any insecticide, or paris green, or lead arsenate, or fungicide which is adulterated or misbranded within the meaning of this act is hereby prohibited; and any person who shall ship or deliver for shipment from any State or Territory or the District of Columbia to any other State or Territory or the District of Columbia, or to any foreign country, or who shall receive in any State or Territory or the District of Columbia from any other State or Territory or the District of Columbia, or foreign country, and having so received, shall deliver, in original unbroken packages, for pay or otherwise, or offer to deliver, to any other person, any such article so adulterated or misbranded within the meaning of this act, or any person who shall sell or offer for sale in the District of Columbia or any Territory of the United States any such adulterated or misbranded insecticide, or paris green, or lead arsenate, or fungicide, or export or offer to export the same to any foreign country, shall be guilty of a misdemeanor, and for such offense be fined not exceeding two hundred dollars for the first offense, and upon conviction for each subsequent offense not exceeding three hundred dollars, or be imprisoned not exceeding one year, or both, in the discretion of the court: *Provided*, That no article shall be deemed misbranded or adulterated within the provisions of this act when intended for export to any foreign country and prepared or packed according to the specifications or directions of the foreign purchaser; but if said article shall be in fact sold or offered for sale for domestic use or consumption, then this proviso shall not exempt said article from the operation of any of the other provisions of this act.

[SEC. 3. That the Secretary of the Treasury, the Secretary of Agriculture, and the Secretary of Commerce and Labor shall make uniform rules and regulations for carrying out the provisions of this act, including the collection and examination of specimens of insecticides, paris greens, lead arsenates, and fungicides manufactured or offered for sale in the District of Columbia or in any Territory of the United States, or which shall be offered for sale in unbroken packages in any State other than that in which they shall have been respectively manufactured or produced, or which shall be received from any foreign country or intended for shipment to any foreign country, or which may be submitted for examination by the director of the experiment station of any State, Territory, or the District of Columbia (acting under the direction of the Secretary of Agriculture), or at any domestic or foreign port through which such product is offered for interstate commerce, or for export or import between the United States and any foreign port or country.

[SEC. 4. That the examination of specimens of insecticides, paris greens, lead arsenates, and fungicides shall be made in the Department of Agriculture, by such existing bureau or bureaus as may be directed by the Secretary, for the purpose of determining from such examination whether such articles are adulterated or misbranded within the meaning of this act; and if it shall appear from any such examination that any of such specimens are adulterated or misbranded within the meaning of this act, the Secretary of Agriculture shall cause notice thereof to be given to the party from whom such sample was obtained. Any party so notified shall be given an opportunity to be heard, under such rules

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and regulations as may be prescribed as aforesaid, and if it appears that any of the provisions of this act have been violated by such party, then the Secretary of Agriculture shall at once certify the facts to the proper United States district attorney, with a copy of the results of the analysis or the examination of such article duly authenticated by the analyst or officer making such examination, under the oath of such officer. After judgment of the court, notice shall be given by publication in such manner as may be prescribed by the rules and regulations aforesaid.

[SEC. 5. That it shall be the duty of each district attorney to whom the Secretary of Agriculture shall report any violation of this act, or to whom any director of experiment station or agent of any State, Territory, or the District of Columbia, under authority of the Secretary of Agriculture, shall present satisfactory evidences of any such violation, to cause appropriate proceedings to be commenced and prosecuted in the proper courts of the United States, without delay, for the enforcement of the penalties as in such case herein provided.

[SEC. 6. That the term "insecticide" as used in this act shall include any substance or mixture of substances intended to be used for preventing, destroying, repelling, or mitigating any insects which may infest vegetation, man or other animals, or households, or be present in any environment whatsoever. The term "paris green" as used in this act shall include the product sold in commerce as paris green and chemically known as the aceto-arsenite of copper. The term "lead arsenate" as used in this act shall include the product or products sold in commerce as lead arsenate and consisting chemically of products derived from arsenic acid (H_3AsO_4) by replacing one or more hydrogen atoms by lead. That the term "fungicide" as used in this act shall include any substance or mixture of substances intended to be used for preventing, destroying, repelling, or mitigating any and all fungi that may infest vegetation or be present in any environment whatsoever.

[SEC. 7. That for the purpose of this act an article shall be deemed to be adulterated—

[In the case of paris green: First, if it does not contain at least fifty per centum of arsenious oxide; second, if it contains arsenic in water-soluble forms equivalent to more than three and one-half per centum of arsenious oxide; third, if any substance has been mixed and packed with it so as to reduce or lower or injuriously affect its quality or strength.

[In the case of lead arsenate: First, if it contains more than fifty per centum of water; second, if it contains total arsenic equivalent to less than twelve and one-half per centum of arsenic oxide (As_2O_5); third, if it contains arsenic in water-soluble forms equivalent to more than seventy-five one-hundredths per centum of arsenic oxide (As_2O_5); fourth, if any substances have been mixed and packed with it so as to reduce, lower, or injuriously affect its quality or strength; *Provided, however*, That extra water may be added to lead arsenate (as described in this paragraph) if the resulting mixture is labeled lead arsenate and water, the percentage of extra water being plainly and correctly stated on the label.

[In the case of insecticides or fungicides, other than paris green and lead arsenate: First, if its strength or purity fall below the professed standard or quality under which it is sold; second, if any substance has been substituted wholly or in part for the article; third, if any valuable constituent of the article has been wholly or in part abstracted; fourth, if it is intended for use on vegetation and shall contain any substance or substances which, although preventing, destroying, repelling, or mitigating insects, shall be injurious to such vegetation when used.

[SEC. 8. That the term "misbranded" as used herein shall apply to all insecticides, paris greens, lead arsenates, or fungicides, or articles which enter into the composition of insecticides or fungicides, the package or label of which shall bear any statement, design, or device regarding such article or the ingredients or substances contained therein which shall be false or misleading in any particular, and to all insecticides, paris greens, lead arsenates, or fungicides which are falsely branded as to the State, Territory, or country in which they are manufactured or produced.

[That for the purpose of this act an article shall be deemed to be misbranded—

[In the case of insecticides, paris greens, lead arsenates, and fungicides: First, if it be an imitation or offered for sale under the name of another article; second, if it be labeled or branded so as to deceive or mislead the purchaser, or if the contents of the package as originally put up shall have been removed in whole or in part and other contents shall have been placed in such package; third, if in package form, and the contents are stated in terms of weight or measure, they are not plainly and correctly stated on the outside of the package.

[In the case of insecticides (other than paris greens and lead arsenates) and fungicides: First, if it contains arsenic in any of its combinations or in the elemental form and the total amount of arsenic present (expressed as per centum of metallic arsenic) is not stated on the label; second, if it contains arsenic in any of its combinations or in the elemental form and the amount of arsenic in water-soluble forms (expressed as per centum of metallic arsenic) is not stated on the label; third, if it consists partially or completely of an inert substance or substances which do not prevent, destroy, repel, or mitigate insects or fungi and does not have the names and percentage amounts of each and every one of such inert ingredients plainly and correctly stated on the label: *Provided, however,* That in lieu of naming and stating the percentage amount of each and every inert ingredient the producer may at his discretion state plainly upon the label the correct names and percentage amounts of each and every ingredient of the insecticide or fungicide having insecticidal or fungicidal properties, and make no mention of the inert ingredients except insofar as to state the total percentage of inert ingredients present.

[SEC. 9. That no dealer shall be prosecuted under the provisions of this act when he can establish a guaranty signed by the wholesaler, jobber, manufacturer, or other party residing in the United States, from whom he purchased such articles, to the effect that the same is not adulterated or misbranded within the meaning of this act, designating it. Said guaranty, to afford protection, shall contain the name and address of the party or parties making the sale of such articles to such dealer, and in such case said party or parties shall be amenable to the prosecutions, fines, and other penalties which would attach in due course to the dealer under the provisions of this act.

[SEC. 10. That any insecticide, paris green, lead arsenate, or fungicide that is adulterated or misbranded within the meaning of this act and is being transported from one State, Territory, or District, to another for sale, or, having been transported, remains unloaded, unsold, or in original unbroken packages, or if it be sold or offered for sale in the District of Columbia or any Territory of the United States, or if it be imported from a foreign country for sale, shall be liable to be proceeded against in any district court of the United States within the district wherein the same is found and seized for confiscation by a process of libel for condemnation.

[And if such article is condemned as being adulterated or misbranded, within the meaning of this act, the same shall be disposed of by destruction or sale as the said court may direct, and the proceeds thereof, if sold, less the legal costs and charges, shall be paid into the Treasury of the United States, but such goods shall not be sold in any jurisdiction contrary to the provisions of this act or the laws of that jurisdiction: *Provided, however,* That upon the payment of the costs of such libel proceedings and the execution and delivery of a good and sufficient bond to the effect that such articles shall not be sold or otherwise disposed of contrary to the provisions of this act or the laws of any State, Territory, or District, the court may by order direct that such articles be delivered to the owner thereof. The proceedings of such libel cases shall conform, as near as may be, to the proceedings in admiralty, except that either party may demand trial by jury of any issue of fact joined in any such case, and all such proceedings shall be at the suit of and in the name of the United States.

[SEC. 11. That the Secretary of the Treasury shall deliver to the Secretary of Agriculture, upon his request, from time to time, samples of insecticides, paris greens, lead arsenates, and fungicides which are being imported into the United States or offered for import, giving notice thereof to the owner or consignee who may appear before the Secretary of Agriculture and have the right to introduce testimony; and if it appear from the examination of such samples that any insecticide, or paris green, or lead arsenate, or fungicide offered to be imported into the United States is adulterated or misbranded within the meaning of this act or is otherwise dangerous to the health of the people of the United States, or is of a kind forbidden entry into or forbidden to be sold or restricted in sale in the country in which it is made or from which it is exported, or is otherwise falsely labeled in any respect, the said article shall be refused admission, and the Secretary of the Treasury shall refuse delivery to the consignee and shall cause the destruction of any goods refused delivery which shall not be exported by the consignee within three months from the date of notice of such refusal under such regulations as the Secretary of the Treasury may prescribe: *Provided,* That the Secretary of the Treasury may deliver to the consignee such goods pending examination and decision in the matter on execution of a penal bond for the amount of the full invoice value of such goods, together with the duty thereon, and on refusal to return such goods for any cause to the custody of the Secretary of the Treasury,

when demanded, for the purpose of excluding them from the country or for any other purpose, said consignee shall forfeit the full amount of the bonds: *And provided further*, That all charges for storage, cartage, and labor on goods which are refused admission or delivery shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against any future importation made by such owner or consignee.

[SEC. 12. That the term "Territory," as used in this act, shall include the District of Alaska and the insular possessions of the United States. The word "person," as used in this act, shall be construed to import both the plural and the singular, as the case demands, and shall include corporations, companies, societies, and associations. When construing and enforcing the provisions of this act, the act, omission, or failure of any officer, agent, or other person acting for or employed by any corporation, company, society, or association, within the scope of his employment or office, shall in every case be also deemed to be the act, omission, or failure of such corporation, company, society, or association, as well as that of the other person.

[SEC. 13. That this act shall be known and referred to as "The Insecticide Act of 1910."

[SEC. 14. That this act shall be in force and effect from and after the first day of January, nineteen hundred and eleven.]



1 repelling, or mitigating any insects, rodents, fungi, weeds,
2 and other forms of plant or animal life or viruses, except
3 viruses on or in living man or other animals, which the
4 Secretary shall declare to be a pest.

5 b. The term "device" means any instrument or con-
6 trivance intended for trapping, destroying, repelling, or
7 mitigating insects or rodents or destroying, repelling, or
8 mitigating fungi ~~or weeds~~, or such other pests as may be
9 designated by the Secretary, but not including equipment
10 used for the application of economic poisons when sold
11 separately therefrom.

12 c. The term "insecticide" means any substance or
13 mixture of substances intended for preventing, destroying,
14 repelling, or mitigating any insects which may be present
15 in any environment whatsoever.

16 d. The term "fungicide" means any substance or mix-
17 ture of substances intended for preventing, destroying, re-
18 pelling, or mitigating any fungi.

19 e. The term "rodenticide" means any substance or
20 mixture of substances intended for preventing, destroying,
21 repelling, or mitigating rodents or any other vertebrate ani-
22 mal which the Secretary shall declare to be a pest.

23 f. The term "herbicide" means any substance or mixture
24 of substances intended for preventing, destroying, repelling,
25 or mitigating any weed.

1 g. The term “weed” means any plant which grows
2 where not wanted.

3 h. The term “insect” means any of the numerous small
4 invertebrate animals generally having the body more or
5 less obviously segmented, for the most part belonging to
6 the class insecta, comprising six-legged, usually winged
7 forms, as, for example, beetles, bugs, bees, flies, and to
8 other allied classes of arthropods whose members are wing-
9 less and usually have more than six legs, as, for example,
10 spiders, mites, ticks, centipedes, and wood lice.

11 i. The term “fungi” means all non-chlorophyll-bearing
12 thallophytes (that is, all non-chlorophyll-bearing plants of
13 a lower order than mosses and liverworts) as, for example,
14 rusts, smuts, mildews, molds, yeasts, and bacteria, except
15 those on or in living man or other animals.

16 j. The term “ingredient statement” means either—

17 (1) a statement of the name and percentage of
18 each active ingredient, together with the total percent-
19 age of the inert ingredients, in the economic poison; or

20 (2) a statement of the name of each active in-
21 gredient, together with the name of each and total per-
22 centage of the inert ingredients, if any there be, in the
23 economic poison (except option 1 shall apply if the
24 preparation is highly toxic to man, determined as pro-
25 vided in section 6 of this Act) ;

1 and, in addition to (1) or (2) in case the economic poison
2 contains arsenic in any form, a statement of the percentages
3 of total and water soluble arsenic, each calculated as
4 elemental arsenic.

5 k. The term "active ingredient" means an ingredient
6 which will prevent, destroy, repel, or mitigate insects, fungi,
7 rodents, weeds or other pests.

8 l. The term "inert ingredient" means an ingredient
9 which is not active.

10 m. The term "antidote" means a practical immediate
11 treatment in case of poisoning and includes first-aid
12 treatment.

13 n. The term "person" means any individual, partner-
14 ship, association, corporation, or any organized group of
15 persons whether incorporated or not.

16 o. The term "Territory" means any Territory or pos-
17 session of the United States, excluding the Canal Zone.

18 p. The term "Secretary" means the Secretary of
19 Agriculture.

20 q. The term "registrant" means the person registering
21 any economic poison pursuant to the provisions of this Act.

22 r. The term "label" means the written, printed, or
23 graphic matter on, or attached to, the economic poison or
24 device or the immediate container thereof, and the outside

1 container or wrapper of the retail package, if any there be,
2 of the economic poison or device.

3 s. The term “labeling” means all labels and other
4 written, printed, or graphic matter—

5 (1) upon the economic poison or device or any of
6 its containers or wrappers;

7 (2) accompanying the economic poison or device
8 at any time;

9 (3) to which reference is made on the label or in
10 literature accompanying the economic poison or device,
11 except to current official publications of the United States
12 Departments of Agriculture and Interior, the United
13 States Public Health Service, State experiment stations,
14 State agricultural colleges, and other similar Federal or
15 State institutions or agencies authorized by law to
16 conduct research in the field of economic poisons;

17 t. The term “adulterated” shall apply to any economic
18 poison if its strength or purity falls below the professed
19 standard or quality as expressed on its labeling or under
20 which it is sold, or if any substance has been substituted
21 wholly or in part for the article, or if any valuable con-
22 stituent of the article has been wholly or in part abstracted.

23 u. The term “misbranded” shall apply—

24 (1) to any economic poison or device if its label-

1 ing bears any statement, design, or graphic representa-
2 tion relative thereto or to its ingredients which is false
3 or misleading in any particular;

4 (2) to any economic poison—

5 (a) if it is an imitation of or is offered for
6 sale under the name of another economic poison;

7 (b) if its labeling bears any reference to reg-
8 istration under this Act;

9 (c) if the labeling accompanying it does not
10 contain ~~instructions~~ *directions* for use which are
11 necessary and if complied with adequate for the
12 protection of the public;

13 (d) if the label does not contain a warning
14 or caution statement which may be necessary and
15 if complied with adequate to prevent injury to living
16 man and other vertebrate animals, vegetation, and
17 useful invertebrate animals;

18 (e) if the label does not bear an ingredient
19 statement on that part of the immediate container
20 and on the outside container or wrapper, if there
21 be one, through which the ingredient statement on
22 the immediate container cannot be clearly read,
23 of the retail package which is presented or displayed
24 under customary conditions of purchase: *Provided,*
25 *That the Secretary may permit the ingredient state-*

ment to appear prominently on some other part of the container, if the size or form of the container makes it impracticable to place it on the part of the retail package which is presented or displayed under customary conditions of purchase.

(f) if any word, statement, or other information required by or under authority of this Act to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or graphic matter in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; or

(g) if in the case of an insecticide, fungicide, or herbicide when used as directed or in accordance with commonly recognized practice it shall be injurious to living man or other vertebrate animals, or vegetation, except weeds, to which it is applied, or to the person applying such economic poison.

PROHIBITED ACTS

SEC. 3. (a) It shall be unlawful for any person to distribute, sell, or offer for sale in any Territory or in the District of Columbia, or to ship or deliver for shipment from any State, Territory, or the District of Columbia to any other

1 State, Territory, or the District of Columbia, or to any for-
2 eign country, or to receive in any State, Territory, or the
3 District of Columbia from any other State, Territory, or the
4 District of Columbia, or foreign country, and having so
5 received, deliver or offer to deliver *in the original unbroken*
6 *package* to any other person, any of the following:

7 (1) Any economic poison which has not been registered
8 pursuant to the provisions of section 4 of this Act, or
9 any economic poison if any of the claims made for it or
10 any of the directions for its use differ in substance from
11 the representations made in connection with its registra-
12 tion, or if the composition of an economic poison differs
13 from its composition as represented in connection with its
14 registration: *Provided*, That in the discretion of the Secre-
15 tary, a change in the labeling or formula of an economic
16 poison may be made within a registration period without
17 requiring reregistration of the product.

18 (2) Any economic poison unless it is in the registrant's
19 or the manufacturer's unbroken immediate container, and
20 there is affixed to such container, and to the outside con-
21 tainer or wrapper of the retail package, if there be one
22 through which the required information on the immediate
23 container cannot be clearly read, a label bearing—

24 (a) the name and address of the manufacturer,
25 registrant, or person for whom manufactured;

(b) the name, brand, or trade-mark under which said article is sold; and

(c) the net weight or measure of the content: *Provided*, That the Secretary may permit reasonable variations.

(3) Any economic poison which contains any substance or substances in quantities highly toxic to man, determined as provided in section 6 of this Act, unless the label shall bear, in addition to any other matter required by this Act—

(a) the skull and crossbones;

(b) the word “poison” prominently (IN RED) on a background of distinctly contrasting color; and

(c) a statement of an antidote for the economic poison.

(4) The economic poisons commonly known as a stand-ard lead arsenate, basic lead arsenate, calcium arsenate, magnesium arsenate, zinc arsenate, zinc arsenite, sodium fluoride, sodium fluosilicate, and barium fluosilicate unless they have been distinctly colored or discolored as provided by regulations issued in accordance with this Act, or any other white powder economic poison which the Secretary, after investigation of and after public hearing on the necessity for such action for the protection of the public health and the feasi-

1 bility of such coloration or discoloration, shall, by regulation,
2 require to be distinctly colored or discolored, unless it has
3 been so colored or discolored: *Provided*, That the Secretary
4 may exempt any economic poison to the extent that it is
5 intended for a particular use or uses from the coloring or dis-
6 coloring required or authorized by this section if he deter-
7 mines that such coloring or discoloring for such use or uses
8 is not necessary for the protection of the public health.

9 (5) Any economic poison which is adulterated or
10 misbranded or any device which is misbranded.

11 b. Notwithstanding any other provision of this Act, no
12 article shall be deemed in violation of this Act when intended
13 solely for export to any foreign country and prepared or
14 packed according to the specifications or directions of the
15 foreign purchaser.

16 c. It shall be unlawful—

17 (1) for any person to detach, alter, deface, or
18 destroy, in whole or in part, any label or labeling pro-
19 vided for in this Act or the rules and regulations promul-
20 gated hereunder, or to add any substance to, or take
21 any substance from, an economic poison in a manner
22 that may defeat the purpose of this Act;

23 (2) for any manufacturer, distributor, dealer, car-
24 rier, or other person to refuse, upon a request in writ-
25 ing specifying the nature or kind of economic poison

1 or device to which such request relates, to furnish to or
2 permit any person designated by the Secretary to have
3 access to and to copy such records as authorized by
4 section 5 of this Act;

5 (3) for any person to give a guaranty or under-
6 taking provided for in section 7 which is false in any
7 particular, except that a person who receives and relies
8 upon a guaranty authorized under section 7 may give
9 a guaranty to the same effect, which guaranty shall
10 contain in addition to his own name and address the
11 name and address of the person residing in the United
12 States from whom he received the guaranty or under-
13 taking; and

14 (4) for any person to use for his own advantage
15 or to reveal, other than to the Secretary, or officials
16 or employees of the United States Department of Agri-
17 culture, or other Federal agencies, or to the courts in
18 response to a subpoena, or to physicians, and in
19 emergencies to pharmacists and other qualified persons,
20 for use in the preparation of antidotes, in accordance
21 with such directions as the Secretary may prescribe,
22 any information relative to formulas of products ac-
23 quired by authority of section 4 of this Act.

24 REGISTRATION

25 SEC. 4. a. Every economic poison which is distributed,

1 sold, or offered for sale in any Territory or the District of
2 Columbia, or which is shipped or delivered for shipment
3 from any State, Territory, or the District of Columbia to
4 any other State, Territory, or the District of Columbia, or
5 which is received from any foreign country shall be reg-
6 istered with the Secretary: *Provided*, That products which
7 have the same formula, are manufactured by the same per-
8 son, the labeling of which contains the same claims, and
9 the labels of which bear a designation identifying the product
10 as the same economic poison may be registered as a single
11 economic poison; and additional names and labels shall be
12 added by supplement statements; the registrant shall file
13 with the Secretary a statement including—

14 (1) the name and address of the registrant and
15 the name and address of the person whose name will
16 appear on the label, if other than the registrant;

17 (2) the name of the economic poison;

18 (3) a complete copy of the labeling accompanying
19 the economic poison and a statement of all claims to
20 be made for it, including the directions for use; and

21 (4) if requested by the Secretary, a full descrip-
22 tion of the tests made and the results thereof upon
23 which the claims are based.

24 b. The Secretary, whenever he deems it necessary for
25 the effective administration of this Act, may require the

1 submission of the complete formula of the economic poison.
2 If it appears to the Secretary that the composition of the
3 article is such as to warrant the proposed claims for it and
4 if the article and its labeling and other material required
5 to be submitted comply with the requirements of section 3
6 of this Act, he shall register it.

7 c. If it does not appear to the Secretary that the article
8 is such as to warrant the proposed claims for it or if the
9 article and its labeling and other material required to be
10 submitted do not comply with the provisions of this Act, he
11 shall notify the registrant of the manner in which the article,
12 labeling, or other material required to be submitted fail to
13 comply with the Act so as to afford the registrant an oppor-
14 tunity to make the corrections necessary. If, upon receipt
15 of such notice, the registrant insists that such corrections are
16 not necessary and requests in writing that it be registered,
17 the Secretary shall register the article, under protest, and
18 such registration shall be accompanied by a warning, in writ-
19 ing, to the registrant of the apparent failure of the article to
20 comply with the provisions of this Act. In order to protect
21 the public, the Secretary, on his own motion, may at any
22 time, cancel the registration of an economic poison and in
23 lieu thereof issue a registration under protest in accordance
24 with the foregoing procedure. In no event shall registration

1 of an article, whether or not protested, be construed as a
2 defense for the commission of any offense prohibited under
3 section 3 of this Act.

4 d. Notwithstanding any other provision of this Act,
5 registration is not required in the case of an economic poison
6 shipped from one plant to another plant operated by the
7 same person and used solely at such plant as a constituent
8 part to make an economic poison which is registered under
9 this Act.

10 e. *The Secretary is authorized to cancel the registration*
11 *of any economic poison at the end of a period of five years*
12 *following the registration of such economic poison or at the*
13 *end of any five-year period thereafter, unless the registrant,*
14 *prior to the expiration of each such five-year period, requests*
15 *in accordance with regulations issued by the Secretary that*
16 *such registration be continued in effect.*

17 BOOKS AND RECORDS

18 SEC. 5. For the purposes of enforcing the provisions
19 of this Act, any manufacturer, distributor, carrier, dealer,
20 or any other person who sells or offers for sale, delivers or
21 offers for delivery, or who receives or holds any economic
22 poison or device subject to this Act, shall, upon request of
23 any employee of the United States Department of Agriculture
24 or any employee of any State, Territory, or political
25 subdivision, duly designated by the Secretary, furnish or

1 permit such person at all reasonable times to have access
2 to, and to copy all records showing the delivery, movement,
3 or holding of such economic poison or device, including the
4 quantity, the date of shipment and receipt, and the name
5 of the consignor and consignee; and in the event of the
6 inability of any person to produce records containing such
7 information, all other records and information relating to
8 such delivery, movement, or holding of the economic poison
9 or device. Notwithstanding this provision, however, the
10 specific evidence obtained under this section shall not be
11 used in a criminal prosecution of the person from whom
12 obtained.

13 ENFORCEMENT

14 SEC. 6. a. The Secretary (except as otherwise pro-
15 vided in this section) is authorized to make rules and regu-
16 lations for carrying out the provisions of this Act, including
17 the collection and examination of samples of economic
18 poisons and devices subject to this Act *and the determination*
19 *and establishment of suitable names to be used in the in-*
20 *gredient statement.* The Secretary is, in addition, authorized
21 after opportunity for hearing—

22 (1) to declare a pest any form of plant or animal
23 life or virus which is injurious to plants, man, domestic
24 animals, articles, or substances;

25 (2) to determine economic poisons, and quantities

1 of substances contained in economic poisons, which are
2 highly toxic to man; and

3 (3) to determine standards of coloring or discolor-
4 ing for economic poisons, and to subject economic
5 poisons to the requirements of section 3a (4) of this
6 Act.

7 b. The Secretary of the Treasury and the Secretary of
8 Agriculture shall jointly prescribe regulations for the enforce-
9 ment of section 10 of this Act.

10 c. The examination of economic poisons or devices shall
11 be made in the United States Department of Agriculture
12 or elsewhere as the Secretary may designate for the purpose
13 of determining from such examination whether they comply
14 with the requirements of this Act, and if it shall appear
15 from any such examination that they fail to comply with the
16 requirements of this Act, the Secretary shall cause notice
17 to be given to the person against whom criminal proceedings
18 are contemplated. Any person so notified shall be given an
19 opportunity to present his views, either orally or in writing,
20 with regard to such contemplated proceedings, and if in the
21 opinion of the Secretary it appears that the provisions of
22 this Act have been violated by such person, then the
23 Secretary shall certify the facts to the proper United States
24 attorney, with a copy of the results of the analysis or the
25 examination of such article: *Provided*, That nothing in this

1 Act shall be construed as requiring the Secretary to report
2 for prosecution or for the institution of libel proceedings
3 minor violations of this Act whenever he believes that the
4 public interest will be adequately served by a suitable written
5 notice of warning.

6 d. It shall be the duty of each United States attorney,
7 to whom the Secretary or his agents shall report any viola-
8 tion of this Act, to cause appropriate proceedings to be
9 commenced and prosecuted in the proper courts of the United
10 States without delay.

11 e. The Secretary shall, by publication in such manner
12 as he may prescribe, give notice of all judgments entered
13 in actions instituted under the authority of this Act.

14 EXEMPTIONS

15 SEC. 7. a. The penalties provided for a violation of
16 section 3a of this Act shall not apply to—

17 (1) any person who establishes a guaranty signed
18 by, and containing the name and address of, the regis-
19 trant or person residing in the United States from whom
20 he purchased and received in good faith the article in
21 the same unbroken package, to the effect that the article
22 was lawfully registered at the time of sale and delivery
23 to him, and that it complies with the other requirements
24 of this Act, designating this Act. In such case the
25 guarantor shall be subject to the penalties which would

1 otherwise attach to the person holding the guaranty
2 under the provisions of this Act;

3 (2) any carrier while lawfully engaged in trans-
4 porting an economic poison or device if such carrier upon
5 request by a person duly designated by the Secretary
6 shall permit such person to copy all records showing the
7 transactions in and movement of the articles;

8 (3) to public officials while engaged in the per-
9 formance of their official duties;

10 (4) to the manufacturer or shipper of an economic
11 poison for experimental use only by or under the super-
12 vision of any Federal or State agency authorized by law
13 to conduct research in the field of economic poisons; or
14 by others if a permit has been obtained before shipment
15 in accordance with regulations promulgated by the
16 Secretary.

17 **PENALTIES**

18 SEC. 8. a. Any person violating section 3a (1) of
19 this Act shall be guilty of a misdemeanor and shall on con-
20 viction be fined not more than \$1,000.

21 b. Any person violating any provision other than sec-
22 tion 3a (1) of this Act shall be guilty of a misdemeanor and
23 shall upon conviction be fined not more than \$500 for the
24 first offense, and on conviction ~~of~~ *for* each subsequent offense
25 be fined not more than \$1,000 *or imprisoned for not more*

1 *than one year, or both such fine and imprisonment: Provided,*
2 *That an offense committed more than five years after the last*
3 *previous conviction shall be considered a first offense: And*
4 *provided further, That in any case where a registrant was*
5 *issued a warning by the Secretary pursuant to the provisions*
6 *of section 4 c of this Act, he shall in each instance upon con-*
7 *viction for an offense concerning which he had been so*
8 *warned, be fined not more than \$1,000 or imprisoned for*
9 *not more than one year, or both such fine and imprisonment;*
10 *and the registration of the article with reference to which the*
11 *violation occurred shall terminate automatically. An article*
12 *the registration of which has been terminated may not again*
13 *be registered unless the article, its labeling, and other material*
14 *required to be submitted appear to the Secretary to comply*
15 *with all the requirements of this Act.*

16 c. Notwithstanding any other provision of this section,
17 in case any person, with intent to defraud, uses or reveals
18 information relative to formulas of products acquired under
19 the authority of section 4 of this Act, he shall be fined not
20 more than \$10,000 or imprisoned for not more than three
21 years, or both such fine and imprisonment.

22 d. When construing and enforcing the provisions of
23 this Act, the act, omission, or failure, of any officer, agent,
24 or other person acting for or employed by any person
25 shall in every case be also deemed to be the act, omission,

1 or failure of such person as well as that of the person,
2 employed.

3 SEIZURES

4 SEC. 9. a. Any economic poison or device that is being
5 transported from one State, Territory, or District to another,
6 or, having been transported, remains unsold or in original
7 unbroken packages, or that is sold or offered for sale in
8 the District of Columbia or any Territory, or that is
9 imported from a foreign country, shall be liable to be pro-
10 ceeded against in any district court of the United States
11 in the district where it is found and seized for confiscation
12 by a process of libel for condemnation—

13 (1) in the case of an economic poison—

14 (a) if it is adulterated or misbranded;

15 (b) if it has not been registered pursuant to
16 the provisions of section 4 of this Act;

17 (c) if it fails to bear on its label the informa-
18 tion required by this Act; or

19 (d) if it is a white powder economic poison
20 and is not colored as required under this Act; or

21 (2) in the case of a device if it is misbranded.

22 b. If the article is condemned it shall, after entry of
23 the decree, be disposed of by destruction or sale as the court
24 may direct and the proceeds, if sold, less the legal costs,
25 shall be paid into the Treasury of the United States, but

1 the article shall not be sold contrary to the provisions of
2 this Act or of the laws of the jurisdiction in which it is
3 sold: *Provided*, That upon the payment of the costs of the
4 libel proceedings and the execution and delivery of a good
5 and sufficient bond conditioned that the article shall not be
6 sold or otherwise disposed of contrary to the provisions of
7 this Act or the laws of any State, Territory, or District in
8 which sold, the court may direct that such articles be de-
9 livered to the owner thereof. The proceedings of such libel
10 cases shall conform, as near as may be, to the proceedings
11 in admiralty, except that either party may demand trial by
12 jury of any issue of fact joined in any case, and all such
13 proceedings shall be at the suit of and in the name of the
14 United States.

15 c. When a decree of condemnation is entered against
16 the article, court costs and fees, storage, and other proper
17 expenses shall be awarded against the person, if any, inter-
18 vening as claimant of the article.

19 IMPORTS

20 SEC. 10. The Secretary of the Treasury shall notify the
21 Secretary of Agriculture of the arrival of economic poisons
22 and devices offered for importation and shall deliver to the
23 Secretary of Agriculture, upon his request, samples of eco-
24 nomic poisons or devices which are being imported or offered
25 for import into the United States, giving notice to the

1 owner or consignee, who may appear before the Secretary
2 of Agriculture and have the right to introduce testimony.
3 If it appears from the examination of a sample that it is
4 adulterated or misbranded or otherwise violates the pro-
5 hibitions set forth in this Act, or is otherwise dangerous to
6 the health of the people of the United States, or is of a
7 kind forbidden entry into or forbidden to be sold or restricted
8 in sale in the country in which it is made or from which
9 it is exported, the said article may be refused admission,
10 and the Secretary of the Treasury shall refuse delivery to
11 the consignee and shall cause the destruction of any goods
12 refused delivery which shall not be exported by the con-
13 signee within three months from the date of notice of such
14 refusal under such regulations as the Secretary of the Treas-
15 ury may prescribe: *Provided*, That the Secretary of the
16 Treasury may deliver to the consignee such goods pending
17 examination and decision in the matter on execution of a
18 penal bond for the amount of the full invoice value of such
19 goods, together with the duty thereon, and on refusal to
20 return such goods for any cause to the custody of the Secre-
21 tary of the Treasury, when demanded, for the purpose of
22 excluding them from the country, or for any other purpose,
23 said consignee shall forfeit the full amount of the bond:
24 *And provided further*, That all charges for storage, cartage,
25 and labor on goods which are refused admission or delivery

1 shall be paid by the owner or consignee, and in default of
2 such payment shall constitute a lien against any future
3 importation made by such owner or consignee.

4 DELEGATION OF DUTIES

5 SEC. 11. All authority vested in the Secretary by virtue
6 of the provisions of this Act may with like force and effect
7 be executed by such employees of the United States Depart-
8 ment of Agriculture as the Secretary may designate for the
9 purpose.

10 AUTHORIZATION FOR APPROPRIATIONS AND EXPENDITURES

11 SEC. 12. a. There is hereby authorized to be appropri-
12 ated, out of any moneys in the Treasury not otherwise appro-
13 priated, such sums as may be necessary for the purposes
14 and administration of this Act. In order to carry out the
15 provisions of this Act, which take effect prior to the repeal
16 of the Insecticide Act of 1910, appropriations available for
17 the enforcement of such Act are authorized to be made
18 available.

19 b. The Secretary is authorized from the funds appro-
20 priated for this Act to make such expenditures as he deems
21 necessary, including rents, travel, supplies, books, samples,
22 testing devices, furniture, equipment, and such other expenses
23 as may be necessary to the administration of this Act.

24 COOPERATION

25 SEC. 13. The Secretary is authorized to cooperate with

1 any other department or agency of the Federal Government
2 and with the official *agricultural or other* regulatory agency
3 of any State, or any State, Territory, District, possession, or
4 any political subdivision thereof, in carrying out the pro-
5 visions of this Act, and in securing uniformity of regulations.

6 SEPARABILITY

7 SEC. 14. If any provision of this Act is declared un-
8 constitutional, or the applicability thereof to any person or
9 circumstance is held invalid, the constitutionality of the
10 remainder of this Act and the applicability thereof to other
11 persons and circumstances shall not be affected thereby.

12 EFFECTIVE DATE

13 SEC. 15. All provisions of this Act, except section 3,
14 "Prohibited Acts"; section 8, "Penalties"; section 9, "Sei-
15 zures"; and section 10, "Imports", shall take effect upon
16 enactment, and sections 3, 8, 9, and 10 of this Act shall
17 take effect as follows: (1) As to devices, upon enactment;
18 (2) as to rodenticides and herbicides, six months after
19 enactment; and (3) as to insecticides, fungicides, and all
20 other economic poisons, one year after enactment: *Provided,*
21 That the Secretary, upon application, may at any time within
22 one year after sections 3, 8, 9, and 10 of this Act become
23 applicable to devices, rodenticides and herbicides, and insecti-
24 cides, fungicides, and other economic poisons, respectively,
25 if he determines that such action will not be unduly detri-

1 mental to the public interest, and is necessary to avoid
2 hardship, exempt, under such terms and conditions as he
3 may prescribe, any economic poison from the provisions of
4 this Act if such economic poison was labeled, shipped, and
5 delivered by the manufacturer thereof prior to the time the
6 sections of this Act referred to above become applicable to
7 such economic poison and in case the economic poison is an
8 insecticide or fungicide if its sale, delivery, or shipment has
9 not been and will not be in violation of the provisions of the
10 Insecticide Act of 1910.

11 REPEALS

12 SEC. 16. The Insecticide Act of 1910, approved April
13 26, 1910 (36 Stat. 331, 7 U. S. C. 121-134), is hereby
14 repealed one year after the date of the enactment of this
15 Act: *Provided*, That, with respect to violations, liabilities
16 incurred, or appeals taken prior to said date, and with
17 respect to sales, shipments, or deliveries of insecticides and
18 fungicides under an exemption granted by the Secretary
19 under section 15, all provisions of the Insecticide Act of
20 1910 shall be deemed to remain in full force for the purpose
21 of sustaining any proper suit, action, or other proceeding
22 with respect to any such violations, liabilities, appeals, or
23 to such sales, shipments, or deliveries of insecticides and
24 fungicides exempted by the Secretary under section 15.

80TH CONGRESS
1ST SESSION

H. R. 1237

[Report No. 313]

A BILL

To regulate the marketing of economic poisons
and devices, and for other purposes.

By Mr. AUGUST H. ANDRESEN

JANUARY 23, 1947

Referred to the Committee on Agriculture

APRIL 25, 1947

Reported with amendments, committed to the Com-
mittee of the Whole House on the State of the
Union, and ordered to be printed

DIGEST OF CONGRESSIONAL PROCEEDINGS OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE

Division of Legislative Reports
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HIGHLIGHTS: House passed bill to regulate marketing of insecticides, rodenticides, weedkillers, etc. Rep. Murray discussed wool bill. Rep. Flannagan introduced national-fertilizer-policy bill. Rep. Cunningham introduced bill to provide "more adequate and effective farm-loan benefits" for veterans. Rep. Murray criticized USDA's handling of dairy price supports.

HOUSE

- MARKETING.** Passed as reported H. R. 1237, to regulate the marketing of insecticides, rodenticides, weed killers, etc. (pp. 5182-6).
- VETERANS' TRAINING.** Passed as reported H. R. 2181, to include "institutional on-farm training" in the education and training program for veterans (pp. 5188-90). (The Congressional Record does not make it clear that this bill was passed, but the "Daily Digest" says it was.)
- ACCOUNTING.** Passed without amendment S. 273, which provides that, effective 3 years after enactment, the monthly and quarterly account of any disbursing, accountable, or certifying officer shall be settled by GAO within 3 years from the date of receipt of the complete account by GAO, except during a war emergency (pp. 5177-8). This bill will now be sent to the President.
- ROADS.** Passed without amendment H. R. 1874, to amend the Federal-Aid Highway Act of 1944 so as to provide for extending the period of availability of the post-war highway funds from 1 year to 2 years after the close of the fiscal year for which the appropriations are authorized (pp. 5180-1).
- CODIFICATION OF LAWS.** Passed several bills to enact titles of the U. S. C. into positive law, as follows: H. R. 1565, title 1, "General Provisions"; H. R. 1566, title 4, "Flag and Seal, Seat of Government, and the States"; H. R. 1567, title 6, "Official and Penal Bonds"; H. R. 2083, title 17, "Copyrights" (pp. 5162-76).
- INVESTIGATIONS.** Agreed, without amendment, to H. Res. 93, authorizing the Public Lands Committee to investigate matters within its jurisdiction, and H. Res. 153, continuing authority for a transportation investigation by the Interstate and Foreign Commerce Committee (pp. 5190-1).

7. TOBACCO QUOTAS. On objections of Reps. Rich, Mason, and Smith of Ohio, passed over H. J. Res. 152, providing for marketing quotas on Va. sun-cured tobacco (p. 5160).
8. VETERANS' PREFERENCE. At the Request of Rep. Cole of N. Y., passed over H. R. 966, to make it mandatory for an administrative officer to take corrective action recommended by CSC in the case of appeals made by preference eligibles (p. 5187).
9. LABOR-FEDERAL SECURITY APPROPRIATION BILL. House conferees were appointed on this bill, H. R. 2700 (p. 5151). Senate conferees were appointed May 5.
10. WOOL PROGRAM. Rep. Murray, Wis., gave a list of questions and answers regarding the wool bill, S. 814 (pp. 5191-4).
11. STATION TRANSFERS. Received from the War Department proposed legislation to validate payments heretofore made by U. S. disbursing officers covering the cost of shipment of household effects of civilian employees. To Judiciary Committee. (p. 5194.)
12. LOBBYING. Received the first 1947 quarterly report listing registration of lobbyists under the Lobbying Act of 1946 (pp. 5195-239).
13. MILK PRICE SUPPORTS. Rep. Murray, Wis., criticized USDA's handling of dairy price supports (pp. 5154-5).
14. ECONOMY. Rep. Hoffman, Mich., suggested increased appropriations as a way in which to stop loans to foreign countries (p. 5155).
15. APPROPRIATIONS. Received from the President (May 9) supplemental appropriation estimates of \$16,160,000 for CSO and \$8,740,000 for FBI, to carry out the administration of the employees loyalty program in the Executive Branch (H.Doc. 242). To Appropriations Committee.

SENATE

16. FOREIGN RELIEF. Sens. Vandenberg, Capper, Wiley, Connally, and George were appointed conferees on S. 938, the Greek-Turkish aid bill (pp. 5127-8). House conferees not yet appointed.
17. LABOR. Continued debate on S. 1126, the labor-management bill (pp. 5117-27, 5128-50). During the debate Sen. Pepper, Fla., stated that "The farmer should be opposing the pending legislation" and discussed the farmer-worker relationship (p. 5122).
18. VETERANS' HOUSING. The Banking and Currency Committee reported with amendment S. 1154, to amend the Veterans' Emergency Housing Act, 1946, so as to decrease the limitation on amounts used for premium payments for increasing materials supplies for the program (S.Rept. 162) (p. 5113).
19. CLAIMS; PERSONNEL. The Judiciary Committee reported without amendment S. 1073, to extend until June 30, 1948, the time during which service of a person in an executive agency does not prohibit him from acting as counsel, etc., for prosecuting claims against the U.S. (S.Rept. 163) (p. 5113).
20. MINERAL LANDS. The Public Lands Committee reported with amendments S. 1081, to promote mining of coal, phosphate, sodium, etc. on lands acquired by the United

Mr. CUNNINGHAM. I yield to the chairman of the committee.

Mr. DONDERO. I think the gentleman has already covered the ground, but is it not a fact that because of the conditions enumerated by the gentleman, many of the States have been unable to comply with the provisions of this act, which makes this bill mandatory in order to protect the States?

Mr. CUNNINGHAM. That is absolutely true. In addition, there would be tremendous waste, because the highway program would be stopped, and highways partly completed would be left in status quo until the Congress took some additional action.

Mr. COLE of New York. Mr. Speaker, I withdraw my reservation of objection.

Mr. ANGELL. Mr. Speaker, reserving the right to object, as one of the members of this committee, I had an opportunity to study this bill very carefully. The people in my particular area in the Northwest are very, very much in sympathy with this bill. I think what the chairman has said and what the gentleman from Iowa [Mr. CUNNINGHAM] has said is absolutely true, that this bill is essential for our road-building program.

The SPEAKER. Is there objection to the present consideration of the bill?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That paragraph (d) of section 4 of the Federal-Aid Highway Act of 1944, Public Law 521, Seventy-eighth Congress, approved December 20, 1944, is hereby amended by striking out the term "one year" where it appears in said paragraph and inserting in lieu thereof the term "two years."

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

TO CODIFY TITLE 18 OF THE UNITED STATES CODE, CRIMES AND CRIMINAL PROCEDURE

The Clerk called the bill (H. R. 3190) to revise, codify, and enact into positive law, title 18 of the United States Code entitled "Crimes and Criminal Procedure."

The SPEAKER. Is there objection to the present consideration of the bill?

There was no objection.

The Clerk read the bill the second time.

Mr. WALTER. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALTER: On page 434, line 11, after the word "of", strike out "three" and insert "five."

[Mr. WALTER addressed the House. His remarks will appear hereafter in the Appendix.]

Mr. ROBSION. Mr. Speaker, this bill differs from the five codification bills which have preceded it on this calendar in that it constitutes a revision, as well as a codification, of the Federal laws relating to crimes and criminal procedure.

A bill similar to this passed the House unanimously in the closing days of the Seventy-ninth Congress but was not acted upon in the other body. I believe

that I should make a brief statement explaining the method of drafting the bill and its scope.

The work on this revision was commenced under the supervision of the former Committee on Revision of the Laws in 1944. That committee engaged the services of the West Publishing Co. and the Edward Thompson Co., two law-publishing companies that have assisted in the preparation of the original United States Code and every supplement and new edition of that code. These companies have worked continuously and closely with the Committee on Revision of the Laws and, since the beginning of this Congress, with the Committee on the Judiciary, and counsel for the committees. In turn, the companies supplemented their regular editorial staffs by engaging the services of a reviser who was long familiar with the operation and administration of these laws. In addition, they assembled an outstanding group of men as an advisory committee who labored unselfishly toward achieving the best revision of the criminal laws. A number of these men—members of the bench and bar of the country—appeared before the Committee on the Judiciary and testified that in their opinion this bill is eminently worthy of favorable action by the Congress. The Department of Justice also designated a representative of the Criminal Division to cooperate in the preparation of this revision.

Several preliminary drafts of the revision were studied most carefully, word for word and line for line, by these various groups, culminating in the bill now up for consideration.

At the last Congress the Committee on the Revision of the Laws, through its chairman, appeared before a subcommittee of the Judiciary Committee and, in a number of sessions, pointed out and explained every change in substantive law made by the bill which had been reported by that committee. After full discussion the Committee on the Judiciary unanimously endorsed the then pending bill, which is similar to the bill before us today, and that bill was passed unanimously by the House on July 16, 1946, in the closing days of the session. The bill had received the endorsement of the Department of Justice and the Section on Criminal Law of the American Bar Association. I believe that I am not engaging in overstatement when I say that no bill of this magnitude ever came to the House with such a background of careful and painstaking preparation and critical appraisal by so many leaders in this branch of the law.

So much for the method of preparation—and I want to express our appreciation to the learned members of the bench and bar who contributed so much of their talent and time toward this work.

Now as to the scope of the bill.

This bill is a restatement of the Federal laws relating to crimes and criminal procedure in effect on April 15, 1947. Most of these laws are now set forth in title 18 of the United States Code and are based upon the 1909 Criminal Code—which was the last revision of criminal

laws enacted by the Congress—and subsequent laws on the subject. Of course, title 18 of the United States Code is only prima facie evidence of the law which is contained in numerous volumes of the Statutes at Large. Upon the enactment of this bill it will no longer be necessary to have recourse to those numerous volumes. All the law will be set out in one place and amendments in the future will be facilitated because of the orderly arrangement of the laws within one title.

Just a year ago with the adoption of the Federal Rules of Criminal Procedure many statutes became obsolete or superseded, but, of course, were not specifically repealed. These together with other obsolete, superseded, redundant, and repetitious statutes are repealed by this bill, and the effect of the rules is clearly set forth in the revision.

The law is restated in simple, clear, and concise language. Many sections of existing statutes are consolidated to facilitate finding the law. The advantages of codes are too well known to require any lengthy exposition on my part at this time.

You will find no radical changes in the philosophy of our criminal law in this bill. There is no attempt made here to coddle criminals and wrongdoers. Nor is this bill a subject of partisanship. Its predecessor which passed the House unanimously in the Seventy-ninth Congress had been reported unanimously by the Committee on the Revision of the Laws and had received the unanimous endorsement of the Committee on the Judiciary. This bill has also been reported unanimously by the Committee on the Judiciary.

Favorable action by the House today will constitute a big step toward an orderly and systematic code of laws and will prove a boon to the bench and bar and the public generally.

Mr. COLE of New York. Mr. Speaker, I rise in opposition to the amendment only for the purpose of suggesting that to some extent the gentleman's amendment is in violation of the understanding on which these bills were submitted to the House for passage today. It was understood that they were simply codifications of existing law and undertook to make no changes in existing law.

I understand that probably the gentleman's amendment has considerable merit, and I see several members of the Committee on the Judiciary on the floor. I certainly am not in a position and have no desire to raise any criticism of procedure or objection to it, but it does seem to be a violation of the understanding under which these bills were submitted.

Mr. ROBSION. Mr. Speaker, will the gentleman yield?

Mr. COLE of New York. I yield.

Mr. ROBSION. I pointed out when I made my statement with reference to the first five bills that we considered, that they were purely a codification. But there are some changes in this bill (H. R. 3198), I mean, for instance, when we were considering this bill the Philippine Islands were a part of the United States. We had many laws applicable to the Philippine Islands when she was a part

of the United States that are no longer in force because the Philippines are no longer a part of the United States. Those laws we cut out.

We also found going through criminal law with the Department of Justice, the bar association, and the representatives of the Federal courts that Congress has passed many acts almost identical. In some of them the penalty was fixed at 5 years and in others, fixed at 6 months. We thought it wise to clarify and harmonize these.

Mr. COLE of New York. Mr. Speaker, so long as these distinguished gentlemen of the Judiciary Committee are satisfied with this procedure and with this bill, I shall not use the time of the House further.

Mr. MICHENER. Mr. Speaker, will the gentleman yield?

Mr. COLE of New York. I yield to the gentleman from Michigan.

Mr. MICHENER. Mr. Speaker, I hold in my hand copy of the committee report which I wish the Members would look at carefully. Where there is any indication of change every one of these questions is fully explained in the report. If we start to amend now we are liable to get into trouble. I favor the bill suggested by the gentleman from Pennsylvania but I hope it will not be interjected here because it will upset the procedure which must be followed if we ever hope to accomplish this purpose.

Mr. COLE of New York. Is the amendment offered by the gentleman from Pennsylvania in the report accompanying this bill to which he has referred?

Mr. MICHENER. No; it is not.

The SPEAKER. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. WALTER].

The question was taken; and the Speaker being in doubt, the House divided, and there were—ayes 38, noes 6.

So the amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

EXTENSION OF REMARKS

Mr. STEVENSON asked and was given permission to extend his remarks in the Appendix of the RECORD and include a report to his constituents.

REVISION OF TITLE 28, UNITED STATES CODE

The Clerk called the bill (H. R. 3214) to revise, codify, and enact into law title 28 of the United States Code entitled "Judicial Code and Judiciary."

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. CURTIS. Mr. Speaker, reserving the right to object, this bill H. R. 3214 deals with the judiciary and judicial procedure and I wish to call attention merely to one part of it. That is the part which deals with The Tax Court of the United States. I do this at the specific request and direction of the chairman of the Committee on Ways and Means.

Mr. COLE of New York. May I inquire if it is the gentleman's intention to object to the passage of the bill in view of the question which he has raised?

Mr. CURTIS. If the gentleman will give me just 1 minute I expect to have it passed over.

Mr. COLE of New York. Why not do it now?

Mr. ROBSION. Mr. Speaker, will the gentleman yield?

Mr. CURTIS. I yield to the gentleman from Kentucky.

Mr. ROBSION. Is not what the gentleman is driving at permitting persons other than lawyers to practice?

Mr. CURTIS. No; I have no reference to that at all. This bill establishes a new court, called the United States Tax Court, and it is given all the jurisdiction and powers vested in the Tax Court of the United States. But nowhere is it stated expressly that the new court is the successor of the existing agency. What will be the status of the present judges of the Tax Court is not determined. What will be the status of the cases pending before it is not determined. In addition to that, it provides that this administrative agency becomes a part of the Federal judiciary.

Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

Mr. GOSSETT. Mr. Speaker, will the gentleman yield?

Mr. CURTIS. I yield to the gentleman from Texas.

Mr. GOSSETT. In reply to the observations that the gentleman has made, this does not change the functions of the Tax Court in the least. It does not change the procedure in the least. It simply makes it a court. Whereas we call it a court, it has been in the administrative branch of the Government, and we now put it in the judiciary branch of the Government which, it seems to me, is highly desirable.

Mr. CURTIS. I do not think that matter has been studied sufficiently.

Mr. GOSSETT. Oh, yes; it has.

Mr. CURTIS. And I do not agree to the proposition that it makes no changes. It makes a lot of changes.

Mr. GOSSETT. The matter has been studied by a very distinguished committee of the bar and the bench. The Treasury has studied it, the Justice Department has studied it, our committee has studied it, and it has been studied backward and forward by everybody in the land almost who has any interest in the matter. Another thing, as a purely administrative agency, your taxpayer who may be aggrieved lacks certain rights of appeal which this bill gives.

Mr. CURTIS. I understood the gentleman to say it did not make any changes.

Mr. GOSSETT. Well, it does not make any change in the procedure except it makes it a court of record.

Mr. COLE of New York. Mr. Speaker, I ask for the regular order.

The SPEAKER. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

MARKETING OF ECONOMIC POISONS AND DEVICES

The Clerk called the bill (H. R. 1237) to regulate the marketing of economic poisons and devices, and for other purposes.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. COLE of New York. Mr. Speaker, reserving the right to object, when I first saw this bill it was my judgment that it was of such a nature and volume that it should be obliged to lie over for a while so that the Members could have an opportunity to study it and the public generally understand its provisions. The gentleman from Minnesota [Mr. ANDRESEN] assures me that the bill is very important, and although there are several other bills still on the Consent Calendar to be called, some of which are deserving of further explanation, I will not ask to have it passed over at this time if the gentleman from Minnesota can give us any assuring explanation.

Mr. AUGUST H. ANDRESEN. Mr. Speaker, this is an important bill. It is a highly technical bill, and for the protection of the public. The bill proposes to replace and expand the Insecticide Act of 1910; in other words, to bring the present insecticide law down to date so that the Federal Government can have some jurisdiction over many new insecticides that have been perfected during the past few years.

I will make a brief explanation of the bill. The Insecticide Act of 1910 was enacted at a time when insecticides and fungicides were comparatively simple, consisting largely of paris green, pyrethrum, bordeaux mixture, and similar materials. Rodenticides and herbicides were not then marketed to any great extent.

Since 1910 great changes have occurred in the field of economic poisons, and the present law is now inadequate. New plant materials and synthetic chemicals developed through research by both private industry and the Government have greatly increased the number of economic poisons and the scope of their usefulness. An important example at the present time is DDT (dichlorodiphenyltrichloroethane), which is revolutionizing many phases of the insecticide industry. Herbicides are becoming increasingly important in the control and eradication of weeds as the result of the recent development of 2-4-dichloro-phenoxy-acetic acid and other synthetic materials.

This bill embraces, in addition to insecticides and fungicides, rodenticides, herbicides, devices and preparations intended to control other forms of pests which are not subject to the present Insecticide Act of 1910. Rodenticides are being marketed in large quantities and many of them are weak and ineffective and have tended to imperil various rodent-control programs. The importance of rodenticides can readily be appreciated when it is realized that the estimated damage by rates alone has amounted to some \$200,000,000 annually.

Other important improvements and changes over the present law which would be provided by this bill are as follows:

First. A provision requiring the registration of economic poisons prior to their sale or introduction into interstate or foreign commerce.

Second. The inclusion of provisions for protection of the public against poisoning by requiring prominently displayed

poison warnings on the labels of highly toxic economic poisons.

Third. A provision requiring the coloring or discoloring of dangerous white powdered economic poisons to prevent their being mistaken for flour, sugar, salt, baking powder, or other similar articles commonly used in the preparation of foodstuffs.

Fourth. A requirement that warning or caution statements be contained on the label of the economic poison to prevent injury to living man, other vertebrate animals, vegetation, and useful invertebrate animals.

Fifth. A provision requiring instructions for use to provide adequate protection for the public.

Sixth. A provision declaring economic poisons to be misbranded if they are injurious to man, vertebrate animals, or vegetation, except weeds, when properly used.

Seventh. A provision requiring information to be furnished with respect to the delivery, movement, or holding of economic poisons and devices.

Mr. KEEFE. Mr. Speaker, will the gentleman yield?

Mr. COLE of New York. I yield to the gentleman from Wisconsin.

Mr. KEEFE. Who administers this law?

Mr. AUGUST H. ANDRESEN. Under the act of 1910, the Insecticide Act is being administered by the Department of Agriculture, because it relates primarily to the use of these insecticides in the production of food. I may say to the gentleman that the insecticide industry, the Department of Agriculture, the distributors, and the organizations representing the producers of this country are all in accord on the need for this bill. Some of the manufacturers do not like the registration proposition; but it was deemed advisable that they should be required to register their product with the Department of Agriculture so that the public could be protected.

Mr. KEEFE. Why is it that the actual work is not handled by the Pure Food and Drug Administration?

Mr. AUGUST H. ANDRESEN. They deal with food, and this deals with insecticides, and under the act of 1910 the Department of Agriculture has handled it.

Mr. KEEFE. They are dealing with a large number of drugs. They handle the Cosmetic Act, for example.

Mr. AUGUST H. ANDRESEN. That is true.

Mr. KEEFE. I am just wondering why you should have two laboratories set up.

Mr. AUGUST H. ANDRESEN. This does not set up additional laboratories.

Mr. KEEFE. They deal with all sorts of insecticides; for example, in the spraying of fruit trees and all that sort of thing. Why should you have two organizations set up, one in the Department of Agriculture and one in the Federal Security Agency, to handle this proposition? Why cannot one do the job?

Mr. AUGUST H. ANDRESEN. Perhaps one agency can do the job, but this

is already in the Department of Agriculture. This does not give the Department of Agriculture any new duties, except as are provided in the bill.

Mr. KEEFE. They are required under the terms of the act, are they not, to make examinations of insecticides and rodenticides and what not?

Mr. AUGUST H. ANDRESEN. They already have that laboratory.

Mr. KEEFE. That is exactly the point I am making. You have such a laboratory over in Agriculture. You have another great big laboratory doing the same type of work, exactly the same type of work, except a larger amount of work, in the Pure Food and Drug Administration. Now we are trying to simplify government and do away with overlapping bureaus and that sort of thing. I am asking what appears to me to be a perfectly decent and reasonable question: Why cannot this work of examination of new insecticides and rodenticides and what have you be done by the Pure Food and Drug Administration, that is already doing that in that field?

Mr. AUGUST H. ANDRESEN. They are not doing that, I may say to the gentleman.

Mr. FLANNAGAN. Mr. Speaker, will the gentleman yield?

Mr. COLE of New York. I yield to the gentleman from Virginia.

Mr. FLANNAGAN. This act at present is being administered by the Department of Agriculture. It primarily affects the farmers. It is to control the use of these insecticides, some of them very dangerous, that are being brought on the market or have been brought on the market during the past 2 or 3 years. It only amends the old act. It is not new legislation. It only brings the legislation up to date in order to give the farming interests of America protection against the use of these dangerous insecticides that are now being brought on the market.

Mr. KEEFE. If the gentleman will yield further, may I say I have no objection to the spirit and purpose of this act. I think it is a perfectly laudable one. But the Pure Food and Drug Administration is presently engaged in the business of examining insecticides for spray material for the treatment of fruit trees; for example, and that sort of thing. They have a great big laboratory established, and they have their agencies throughout the country doing that sort of work.

What I would like to know is: Why cannot this work of examining and passing upon the potency of proposed rodent control material and insecticide material be done by them?

Mr. FLANNAGAN. May I say to the gentleman that undoubtedly there is considerable merit in his statement that this activity should be consolidated, but that question has not been gone into. The only thing we are doing in this legislation is amending the present act. The present act provides that this work shall be done in the Department of Agriculture and it is left there. Hereafter if it is thought fit that these activities should be consolidated, then proper con-

sideration should be given to that question.

Mr. AUGUST H. ANDRESEN. May I say to the gentleman from Wisconsin I feel a thorough investigation of the Department of Agriculture and other agencies of the Government should and would disclose matters that we could eliminate to avoid duplication. This may be one of them. But I think that should be the subject of separate legislation because of the vital need of this legislation to protect the growers of food so that they can know what they are buying when they purchase these insecticides.

Mr. KEEFE. The gentleman is a member of the Committee on Agriculture, as well as the distinguished gentleman from Virginia [Mr. FLANNAGAN], who apparently are interested in this bill. I do not happen to be a member of any legislative committee, but I do happen to be a member of the Committee on Appropriations, which handles the appropriations for the Pure Food and Drug Administration, and by reason of that fact, I am somewhat familiar with the operations of the Administration.

We are obliged to the people of America to economize in government and wherever the opportunity presents itself to wipe out duplicating agencies of government. Here is a flagrant case where in the Department of Agriculture there are a number of scientists who are set up for the purpose of examining insecticides and not permitting the misbranding of fungicides, rodenticides, and a few other things of that character, the exact type of work that is being done by the Pure Food and Drug Administration. Why not start in now and economize a little bit?

Mr. FLANNAGAN. I am not saying that the gentleman is not right—that there should be consolidation, but the defeat of this legislation will not bring about that consolidation. This legislation is for the purpose of bringing about an efficient administration with reference to these dangerous insecticides that are being sold to the farmers today so as to protect the people of America who are producing the food.

Mr. AUGUST H. ANDRESEN. I can assure the gentleman from Wisconsin that I am in thorough accord with his proposal to do away with duplication of activities on the part of many bureaus. This duplication should be eliminated, even though it might require the transfer of the enforcement of the insecticide law by the Pure Food and Drug Administration, or the transfer of the Pure Food and Drug over to the Department of Agriculture. Several hundred million dollars can be saved by eliminating duplications in Federal activities, and I will go along with the gentlemen and other Members of the House to accomplish this result.

In view of the emergency for the measure before the House, I hope that there will not be any objection at this time.

Mr. COLE of New York. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the present consideration of the bill?

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc.—

TITLE

SECTION 1. This act may be cited as the "Federal Insecticide, Fungicide, and Rodenticide Act."

DEFINITIONS

SEC. 2. For the purposes of this act—

a. The term "economic poison" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects, rodents, fungi, weeds, and other forms of plant or animal life or viruses, except viruses on or in living man or other animals, which the Secretary shall declare to be a pest.

b. The term "device" means any instrument or contrivance intended for trapping, destroying, repelling, or mitigating insects or rodents or destroying, repelling, or mitigating fungi or weeds, or such other pests as may be designated by the Secretary, but not including equipment used for the application of economic poisons when sold separately therefrom.

c. The term "insecticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects which may be present in any environment whatsoever.

d. The term "fungicide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any fungi.

e. The term "rodenticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating rodents or any other vertebrate animal which the Secretary shall declare to be a pest.

f. The term "herbicide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any weed.

g. The term "weed" means any plant which grows where not wanted.

h. The term "insect" means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class insecta, comprising six-legged, usually winged forms, as for example, beetles, bugs, flies, and to other allied classes of arthropods whose members are wingless and usually have more than six legs, as, for example, spiders, mites, ticks, centipedes, and wood lice.

i. The term "fungi" means all non-chlorophyll-bearing thallophytes (that is, all non-chlorophyll-bearing plants of a lower order than mosses and liverworts) as, for example, rusts, smuts, mildews, molds, yeasts, and bacteria, except those on or in living man or other animals.

j. The term "ingredient statement" means either—

(1) a statement of the name and percentage of each active ingredient, together with the total percentage of the inert ingredients, in the economic poison; or

(2) a statement of the name of each active ingredient, together with the name of each and total percentage of the inert ingredients, if any there be, in the economic poison (except option 1 shall apply if the preparation is highly toxic to man, determined as provided in section 6 of this act); and, in addition to (1) or (2) in case the economic poison contains arsenic in any form, a statement of the percentages of total and water soluble arsenic, each calculated as elemental arsenic.

k. The term "active ingredient" means an ingredient which will prevent, destroy, repel, or mitigate insects, fungi, rodents, weeds, or other pests.

l. The term "inert ingredient" means an ingredient which is not active.

m. The term "antidote" means a practical immediate treatment in case of poisoning and includes first-aid treatment.

n. The term "person" means any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not.

o. The term "Territory" means any Territory or possession of the United States, excluding the Canal Zone.

p. The term "Secretary" means the Secretary of Agriculture.

q. The term "registrant" means the person registering any economic poison pursuant to the provisions of this act.

r. The term "label" means the written, printed, or graphic matter on, or attached to, the economic poison or device or the immediate container thereof, and the outside container or wrapper of the retail package, if any there be, of the economic poison or device.

s. The term "labeling" means all labels and other written, printed, or graphic matter—

(1) upon the economic poison or device or any of its containers or wrappers;

(2) accompanying the economic poison or device at any time;

(3) to which reference is made on the label or in literature accompanying the economic poison or device, except to current official publications of the United States Departments of Agriculture and Interior, the United States Public Health Service, State experiment stations, State agricultural colleges, and other similar Federal or State institutions or agencies authorized by law to conduct research in the field of economic poisons;

t. The term "adulterated" shall apply to any economic poison if its strength or purity falls below the professed standard or quality as expressed on its labeling or under which it is sold, or if any substance has been substituted wholly or in part for the article, or if any valuable constituent of the article has been wholly or in part abstracted.

u. The term "misbranded" shall apply—

(1) to any economic poison or device if its labeling bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular;

(2) to any economic poison—

(a) if it is an imitation of or is offered for sale under the name of another economic poison;

(b) if its labeling bears any reference to registration under this act;

(c) if the labeling accompanying it does not contain instructions for use which are necessary and if complied with adequate for the protection of the public;

(d) if the label does not contain a warning or caution statement which may be necessary and if complied with adequate to prevent injury to living man and other vertebrate animals, vegetation, and useful invertebrate animals;

(e) if the label does not bear an ingredient statement on that part of the immediate container and on the outside container or wrapper, if there be one, through which the ingredient statement on the immediate container cannot be clearly read, of the retail package which is presented or displayed under customary conditions of purchase.

(f) if any word, statement, or other information required by or under authority of this act to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or graphic matter in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; or

(g) if in the case of an insecticide, fungicide, or herbicide when used as directed or in accordance with commonly recognized practice it shall be injurious to living man or other vertebrate animals, or vegetation, except weeds, to which it is applied, or to the person applying such economic poison.

PROHIBITED ACTS

SEC. 3. a. It shall be unlawful for any person to distribute, sell, or offer for sale in any Territory or in the District of Columbia, or to ship or deliver for shipment from any State, Territory, or the District of Columbia to any other State, Territory, or the District of Columbia, or to any foreign country, or to receive in any State, Territory, or the District of Columbia from any other State, Territory, or the District of Columbia, or foreign country, and having so received, deliver or offer to deliver to any other person, any of the following:

(1) Any economic poison which has not been registered pursuant to the provisions of section 4 of this act, or any economic poison if any of the claims made for it or any of the directions for its use differ in substance from the representations made in connection with its registration, or if the composition of an economic poison differs from its composition as represented in connection with its registration: *Provided*, That in the discretion of the Secretary, a change in the labeling or formula of an economic poison may be made within a registration period without requiring reregistration of the product.

(2) Any economic poison unless it is in the registrant's or the manufacturer's unbroken immediate container, and there is affixed to such container, and to the outside container or wrapper of the retail package, if there be one through which the required information on the immediate container cannot be clearly read, a label bearing—

(a) the name and address of the manufacturer, registrant, or person for whom manufactured;

(b) the name, brand, or trade-mark under which said article is sold; and

(c) the net weight or measure of the content: *Provided*, That the Secretary may permit reasonable variations.

(3) Any economic poison which contains any substance or substances in quantities highly toxic to man, determined as provided in section 6 of this act, unless the label shall bear, in addition to any other matter required by this act—

(a) the skull and crossbones;

(b) the word "poison" prominently (in red) on a background of distinctly contrasting color; and

(c) a statement of an antidote for the economic poison.

(4) The economic poisons commonly known as a standard lead arsenate, basic lead arsenate, calcium arsenate, magnesium arsenate, zinc arsenate, zinc arsenite, sodium fluoride, sodium fluosilicate, and barium fluosilicate unless they have been distinctly colored or discolored as provided by regulations issued in accordance with this act, or any other white powder economic poison which the Secretary, after investigation of and after public hearing on the necessity for such action for the protection of the public health and the feasibility of such coloration or discoloration, shall, by regulation, require to be distinctly colored or discolored, unless it has been so colored or discolored: *Provided*, That the Secretary may exempt any economic poison to the extent that it is intended for a particular use or uses from the coloring or discoloring required or authorized by this section if he determines that such coloring or discoloring for such use or uses is not necessary for the protection of the public health.

(5) Any economic poison which is adulterated or misbranded or any device which is misbranded.

b. Notwithstanding any other provision of this act, no article shall be deemed in violation of this act when intended solely for export to any foreign country and prepared or packed according to the specifications or directions of the foreign purchaser.

c. It shall be unlawful—

(1) for any person to detach, alter, deface, or destroy, in whole or in part, any label or labeling provided for in this act or the rules and regulations promulgated hereunder, or to add any substance to, or take any substance from, an economic poison in a manner that may defeat the purpose of this act;

(2) for any manufacturer, distributor, dealer, carrier, or other person to refuse, upon a request in writing specifying the nature or kind of economic poison or device to which such request relates, to furnish to or permit any person designated by the Secretary to have access to and to copy such records as authorized by section 5 of this act;

(3) for any person to give a guaranty or undertaking provided for in section 7 which is false in any particular, except that a person who receives and relies upon a guaranty authorized under section 7 may give a guaranty to the same effect, which guaranty shall contain in addition to his own name and address the name and address of the person residing in the United States from whom he received the guaranty or undertaking; and

(4) for any person to use for his own advantage or to reveal, other than to the Secretary, or officials or employees of the United States Department of Agriculture, or other Federal agencies, or to the courts in response to a subpoena, or to physicians, and in emergencies to pharmacists and other qualified persons, for use in the preparation of antidotes, in accordance with such directions as the Secretary may prescribe, any information relative to formulas of products acquired by authority of section 4 of this act.

REGISTRATION

SEC. 4. a. Every economic poison which is distributed, sold, or offered for sale in any Territory or the District of Columbia, or which is shipped or delivered for shipment from any State, Territory, or the District of Columbia to any other State, Territory, or the District of Columbia, or which is received from any foreign country shall be registered with the Secretary: *Provided*, That products which have the same formula, are manufactured by the same person, the labeling of which contains the same claims, and the labels of which bear a designation identifying the product as the same economic poison may be registered as a single economic poison; and additional names and labels shall be added by supplement statements; the registrant shall file with the Secretary a statement including—

(1) the name and address of the registrant and the name and address of the person whose name will appear on the label, if other than the registrant;

(2) the name of the economic poison;

(3) a complete copy of the labeling accompanying the economic poison and a statement of all claims to be made for it, including the directions for use; and

(4) if requested by the Secretary, a full description of the tests made and the results thereof upon which the claims are based.

b. The Secretary, whenever he deems it necessary for the effective administration of this act, may require the submission of the complete formula of the economic poison. If it appears to the Secretary that the composition of the article is such as to warrant the proposed claims for it and if the article and its labeling and other material required to be submitted comply with the requirements of section 3 of this act, he shall register it.

c. If it does not appear to the Secretary that the article is such as to warrant the proposed claims for it or if the article and its labeling and other material required to be submitted do not comply with the provisions of this act, he shall notify the registrant of the manner in which the article, labeling, or other material required to be submitted fail to comply with the act so as to afford the registrant an opportunity

to make the corrections necessary. If, upon receipt of such notice, the the registrant insists that such corrections are not necessary and requests in writing that it be registered, the Secretary shall register the article, under protest, and such registration shall be accompanied by a warning, in writing, to the registrant of the apparent failure of the article to comply with the provisions of this act. In order to protect the public, the Secretary, on his own motion, may at any time, cancel the registration of an economic poison and in lieu thereof issue a registration under protest in accordance with the foregoing procedure. In no event shall registration of an article, whether or not protested, be construed as a defense for the commission of any offense prohibited under section 3 of this act.

d. Notwithstanding any other provision of this act, registration is not required in the case of an economic poison shipped from one plant to another plant operated by the same person and used solely at such plant as a constituent part to make an economic poison which is registered under this act.

BOOKS AND RECORDS

SEC. 5. For the purposes of enforcing the provisions of this act, any manufacturer, distributor, carrier, dealer, or any other person who sells or offers for sale, delivers or offers for delivery, or who receives or holds any economic poison or device subject to this act, shall, upon request of any employee of the United States Department of Agriculture or any employee of any State, Territory, or political subdivision, duly designated by the Secretary, furnish or permit such person at all reasonable times to have access to, and to copy all records showing the delivery, movement, or holding of such economic poison or device, including the quantity, the date of shipment and receipt, and the name of the consignor and consignee; and in the event of the inability of any person to produce records containing such information, all other records and information relating to such delivery, movement, or holding of the economic poison or device. Notwithstanding this provision, however, the specific evidence obtained under this section shall not be used in a criminal prosecution of the person from whom obtained.

ENFORCEMENT

SEC. 6. a. The Secretary (except as otherwise provided in this section) is authorized to make rules and regulations for carrying out the provisions of this act, including the collection and examination of samples of economic poisons and devices subject to this act. The Secretary is, in addition, authorized after opportunity for hearing—

(1) to declare a pest any form of plant or animal life or virus which is injurious to plants, man, domestic animals, articles, or substances;

(2) to determine economic poisons, and quantities of substances contained in economic poisons, which are highly toxic to man; and

(3) to determine standards of coloring or discoloring for economic poisons, and to subject economic poisons to the requirements of section 3a (4) of this act.

b. The Secretary of the Treasury and the Secretary of Agriculture shall jointly prescribe regulations for the enforcement of section 10 of this act.

c. The examination of economic poisons or devices shall be made in the United States Department of Agriculture or elsewhere as the Secretary may designate for the purpose of determining from such examination whether they comply with the requirements of this act, and if it shall appear from any such examination that they fail to comply with the requirements of this act, the Secretary shall cause notice to be given to the person against whom criminal proceedings are contemplated. Any person so notified shall be given an opportunity to present his

views, either orally or in writing, with regard to such contemplated proceedings, and if in the opinion of the Secretary it appears that the provisions of this act have been violated by such person, then the Secretary shall certify the facts to the proper United States attorney, with a copy of the results of the analysis or the examination of such article: *Provided*, That nothing in this act shall be construed as requiring the Secretary to report for prosecution or for the institution of libel proceedings minor violations of this act whenever he believes that the public interest will be adequately served by a suitable written notice of warning.

d. It shall be the duty of each United States attorney, to whom the Secretary or his agents shall report any violation of this Act, to cause appropriate proceedings to be commenced and prosecuted in the proper courts of the United States without delay.

e. The Secretary shall, by publication in such manner as he may prescribe, give notice of all judgments entered in action instituted under the authority of this act.

EXEMPTIONS

SEC. 7. a. The penalties provided for a violation of section 3a of this act shall not apply to—

(1) any person who establishes a guaranty signed by, and containing the name and address of, the registrant or person residing in the United States from whom he purchased and received in good faith the article in the same unbroken package, to the effect that the article was lawfully registered at the time of sale and delivery to him, and that it complies with the other requirements of this act, designating this act. In such case the guarantor shall be subject to the penalties which would otherwise attach to the person holding the guaranty under the provisions of this act;

(2) any carrier while lawfully engaged in transporting an economic poison or device if such carrier upon request by a person duly designated by the Secretary shall permit such person to copy all records showing the transactions in and movement of the articles;

(3) to public officials while engaged in the performance of their official duties;

(4) to the manufacturer or shipper of an economic poison for experimental use only by or under the supervision of any Federal or State agency authorized by law to conduct research in the field of economic poisons; or by others if a permit has been obtained before shipment in accordance with regulations promulgated by the Secretary.

PENALTIES

SEC. 8. a. Any person violating section 3a (1) of this act shall be guilty of a misdemeanor and shall on conviction be fined not more than \$1,000.

b. Any person violating any provision other than section 3a (1) of this act shall be guilty of a misdemeanor and shall upon conviction be fined not more than \$500 for the first offense, and on conviction of each subsequent offense be fined not more than \$1,000: *Provided*, That an offense committed more than 5 years after the last previous conviction shall be considered a first offense: *And provided further*, That in any case where a registrant was issued a warning by the Secretary pursuant to the provisions of section 4 c of this act, he shall in each instance upon conviction for an offense concerning which he had been so warned, be fined not more than \$1,000 or imprisoned for not more than 1 year, or both such fine and imprisonment; and the registration of the article with reference to which the violation occurred shall terminate automatically. An article the registration of which has been terminated may not again be registered unless the article, its labeling, and other material required to be submitted appear to the

Secretary to comply with all the requirements of this act.

c. Notwithstanding any other provision of this section, in case any person, with intent to defraud, uses or reveals information relative to formulas of products acquired under the authority of section 4 of this act, he shall be fined not more than \$10,000 or imprisoned for not more than 3 years, or both such fine and imprisonment.

d. When construing and enforcing the provisions of this act, the act, omission, or failure, of any officer, agent, or other person acting for or employed by any person shall in every case be also deemed to be the act, omission, or failure of such person as well as that of the person employed.

SEIZURES

SEC. 9. a. Any economic poison or device that is being transported from one State, Territory, or District to another, or, having been transported, remains unsold or in original unbroken packages, or that is sold or offered for sale in the District of Columbia or any Territory, or that is imported from a foreign country, shall be liable to be proceeded against in any district court of the United States in the district where it is found and seized for confiscation by a process of libel for condemnation—

- (1) in the case of an economic poison—
 - (a) if it is adulterated or misbranded;
 - (b) if it has not been registered pursuant to the provisions of section 4 of this act;
 - (c) if it fails to bear on its label the information required by this act; or
 - (d) if it is a white powder economic poison and is not colored as required under this act; or
- (2) in the case of a device if it is misbranded.

b. If the article is condemned it shall, after entry of the decree, be disposed of by destruction or sale as the court may direct and the proceeds, if sold, less the legal costs, shall be paid into the Treasury of the United States, but the article shall not be sold contrary to the provisions of this act or of the laws of the jurisdiction in which it is sold: *Provided*, That upon the payment of the costs of the libel proceedings and the execution and delivery of a good and sufficient bond conditioned that the article shall not be sold or otherwise disposed of contrary to the provisions of this act or the laws of any State, Territory, or District in which sold, the court may direct that such articles be delivered to the owner thereof. The proceedings of such libel cases shall conform, as near as may be, to the proceedings in admiralty, except that either party may demand trial by jury of any issue of fact joined in any case, and all such proceedings shall be at the suit of and in the name of the United States.

c. When a decree of condemnation is entered against the article, court costs and fees, storage, and other proper expenses shall be awarded against the person, if any, intervening as claimant of the article.

IMPORTS

SEC. 10. The Secretary of the Treasury shall notify the Secretary of Agriculture of the arrival of economic poisons and devices offered for importation and shall deliver to the Secretary of Agriculture, upon his request, samples of economic poisons or devices which are being imported or offered for import into the United States, giving notice to the owner or consignee, who may appear before the Secretary of Agriculture and have the right to introduce testimony. If it appears from the examination of a sample that it is adulterated or misbranded or otherwise violates the prohibitions set forth in this act, or is otherwise dangerous to the health of the people of the United States, or is of a kind forbidden entry into or forbidden to be sold or restricted in sale in the country in which

it is made or from which it is exported, the said article may be refused admission, and the Secretary of the Treasury shall refuse delivery to the consignee and shall cause the destruction of any goods refused delivery which shall not be exported by the consignee within 3 months from the date of notice of such refusal under such regulations as the Secretary of the Treasury may prescribe: *Provided*, That the Secretary of the Treasury may deliver to the consignee such goods pending examination and decision in the matter on execution of a penal bond for the amount of the full invoice value of such goods, together with the duty thereon, and on refusal to return such goods for any cause to the custody of the Secretary of the Treasury, when demanded, for the purpose of excluding them from the country, or for any other purpose, said consignee shall forfeit the full amount of the bond: *And provided further*, That all charges for storage cartage, and labor on goods which are refused admission or delivery shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against any future importation made by such owner or consignee.

DELEGATION OF DUTIES

SEC. 11. All authority vested in the Secretary by virtue of the provisions of this act may with like force and effect be executed by such employees of the United States Department of Agriculture as the Secretary may designate for the purpose.

AUTHORIZATION FOR APPROPRIATIONS AND EXPENDITURES

SEC. 12. a. There is hereby authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary for the purposes and administration of this act. In order to carry out the provisions of this act, which take effect prior to the repeal of the Insecticide Act of 1910, appropriations available for the enforcement of such act are authorized to be made available.

b. The Secretary is authorized from the funds appropriated for this act to make such expenditures as he deems necessary, including rents, travel, supplies, books, samples, testing devices, furniture, equipment, and such other expenses as may be necessary to the administration of this act.

COOPERATION

SEC. 13. The Secretary is authorized to cooperate with any other department or agency of the Federal Government and with the official regulatory agency of any State, or any State, Territory, District, possession, or any political subdivision thereof, in carrying out the provisions of this act, and in securing uniformity of regulations.

SEPARABILITY

SEC. 14. If any provision of this act is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of this act and the applicability thereof to other persons and circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 15. All provisions of this act, except section 3, "Prohibited Acts"; section 8, "Penalties"; section 9, "Seizures"; and section 10, "Imports," shall take effect upon enactment, and sections 3, 8, 9, and 10 of this act shall take effect as follows: (1) As to devices, upon enactment; (2) as to rodenticides and herbicides, 6 months after enactment; and (3) as to insecticides, fungicides, and all other economic poisons, 1 year after enactment: *Provided*, That the Secretary, upon application, may at any time within 1 year after sections 3, 8, 9, and 10 of this act become applicable to devices, rodenticides and herbicides, and insecticides, fungicides, and other economic poisons, respectively, if he determines that

such action will not be unduly detrimental to the public interest, and is necessary to avoid hardship, exempt, under such terms and conditions as he may prescribe, any economic poison from the provisions of this act if such economic poison was labeled, shipped, and delivered by the manufacturer thereof prior to the time the sections of this act referred to above become applicable to such economic poison and in case the economic poison is an insecticide or fungicide if its sale, delivery, or shipment has not been and will not be in violation of the provisions of the Insecticide Act of 1910.

REPEALS

SEC. 16. The Insecticide Act of 1910, approved April 26, 1910 (36 Stat. 331, 7 U. S. C. 121-134), is hereby repealed 1 year after the date of the enactment of this act: *Provided*, That, with respect to violations, liabilities incurred, or appeals taken prior to said date, and with respect to sales, shipments, or deliveries of insecticides and fungicides under an exemption granted by the Secretary under section 15, all provisions of the Insecticide Act of 1910 shall be deemed to remain in full force for the purpose of sustaining any proper suit, action, or other proceeding with respect to any such violations, liabilities, appeals, or to such sales, shipments, or deliveries of insecticides and fungicides exempted by the Secretary under section 15.

With the following committee amendments:

Page 2, line 6, strike out the words "or weeds."

Page 6, line 11, strike out the word "Instructions" and insert in lieu thereof the word "directions."

Page 7, line 2, strike out the semicolon and insert in lieu thereof a colon and add the following:

"*Provided*, That the Secretary may permit the ingredient statement to appear prominently on some other part of the container, if the size or form of the container makes it impracticable to place it on the part of the retail package which is presented or displayed under customary conditions of purchase."

Page 8, line 4, insert after the phrase "deliver or offer to deliver" the following: "in the original unbroken package"; and insert a comma after the word "person."

Page 9, line 16, strike out the article "a."

Page 14, line 14, insert a new subsection e, as follows:

"e. The Secretary is authorized to cancel the registration of any economic poison at the end of a period of 5 years following the registration of such economic poison or at the end of any 5-year period thereafter, unless the registrant, prior to the expiration of each such 5-year period, requests in accordance with regulations issued by the Secretary that such registration be continued in effect."

Page 15, line 15, strike out the period after the word "act" and insert the following: "and the determination and establishment of suitable names to be used in the ingredient statement."

Page 18, line 22, strike out the word "of" and insert in lieu thereof the word "for."

Page 18, line 23, insert after the figures "\$1,000" and before the colon the following: "or imprisoned for not more than 1 year, or both such fine and imprisonment."

Page 24, line 4, insert after the word "official" the following: "agricultural or other."

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

80TH CONGRESS
1ST SESSION

H. R. 1237

IN THE SENATE OF THE UNITED STATES

MAY 13 (legislative day, APRIL 21), 1947

Read twice and referred to the Committee on Agriculture and Forestry

AN ACT

To regulate the marketing of economic poisons and devices, and
for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 TITLE

4 SECTION 1. This Act may be cited as the "Federal
5 Insecticide, Fungicide, and Rodenticide Act".

6 DEFINITIONS

7 SEC. 2. For the purposes of this Act—

8 a. The term "economic poison" means any substance
9 or mixture of substances intended for preventing, destroying,
10 repelling, or mitigating any insects, rodents, fungi, weeds,
11 and other forms of plant or animal life or viruses, except

1 viruses on or in living man or other animals, which the
2 Secretary shall declare to be a pest.

3 b. The term "device" means any instrument or con-
4 trivance intended for trapping, destroying, repelling, or
5 mitigating insects or rodents or destroying, repelling, or
6 mitigating fungi or such other pests as may be designated
7 by the Secretary, but not including equipment used for
8 the application of economic poisons when sold separately
9 therefrom.

10 c. The term "insecticide" means any substance or
11 mixture of substances intended for preventing, destroying,
12 repelling, or mitigating any insects which may be present
13 in any environment whatsoever.

14 d. The term "fungicide" means any substance or mix-
15 ture of substances intended for preventing, destroying, re-
16 pelling, or mitigating any fungi.

17 e. The term "rodenticide" means any substance or
18 mixture of substances intended for preventing, destroying,
19 repelling, or mitigating rodents or any other vertebrate ani-
20 mal which the Secretary shall declare to be a pest.

21 f. The term "herbicide" means any substance or mixture
22 of substances intended for preventing, destroying, repelling,
23 or mitigating any weed.

24 g. The term "weed" means any plant which grows
25 where not wanted.

1 h. The term "insect" means any of the numerous small
2 invertebrate animals generally having the body more or
3 less obviously segmented, for the most part belonging to
4 the class insecta, comprising six-legged, usually winged
5 forms, as, for example, beetles, bugs, bees, flies, and to
6 other allied classes of arthropods whose members are wing-
7 less and usually have more than six legs, as, for example,
8 spiders, mites, ticks, centipedes, and wood lice.

9 i. The term "fungi" means all non-chlorophyll-bearing
10 thallophytes (that is, all non-chlorophyll-bearing plants of
11 a lower order than mosses and liverworts) as, for example,
12 rusts, smuts, mildews, molds, yeasts, and bacteria, except
13 those on or in living man or other animals.

14 j. The term "ingredient statement" means either—

15 (1) a statement of the name and percentage of
16 each active ingredient, together with the total percent-
17 age of the inert ingredients, in the economic poison; or

18 (2) a statement of the name of each active in-
19 gredient, together with the name of each and total per-
20 centage of the inert ingredients, if any there be, in the
21 economic poison (except option 1 shall apply if the
22 preparation is highly toxic to man, determined as pro-
23 vided in section 6 of this Act) ;

24 and, in addition to (1) or (2) in case the economic poison
25 contains arsenic in any form, a statement of the percentages

1 of total and water soluble arsenic, each calculated as
2 elemental arsenic.

3 k. The term "active ingredient" means an ingredient
4 which will prevent, destroy, repel, or mitigate insects, fungi,
5 rodents, weeds or other pests.

6 l. The term "inert ingredient" means an ingredient
7 which is not active.

8 m. The term "antidote" means a practical immediate
9 treatment in case of poisoning and includes first-aid
10 treatment.

11 n. The term "person" means any individual, partner-
12 ship, association, corporation, or any organized group of
13 persons whether incorporated or not.

14 o. The term "Territory" means any Territory or pos-
15 session of the United States, excluding the Canal Zone.

16 p. The term "Secretary" means the Secretary of
17 Agriculture.

18 q. The term "registrant" means the person registering
19 any economic poison pursuant to the provisions of this Act.

20 r. The term "label" means the written, printed, or
21 graphic matter on, or attached to, the economic poison or
22 device or the immediate container thereof, and the outside
23 container or wrapper of the retail package, if any there be,
24 of the economic poison or device.

1 s. The term "labeling" means all labels and other
2 written, printed, or graphic matter—

3 (1) upon the economic poison or device or any of
4 its containers or wrappers;

5 (2) accompanying the economic poison or device
6 at any time;

7 (3) to which reference is made on the label or in
8 literature accompanying the economic poison or device,
9 except to current official publications of the United States
10 Departments of Agriculture and Interior, the United
11 States Public Health Service, State experiment stations,
12 State agricultural colleges, and other similar Federal or
13 State institutions or agencies authorized by law to
14 conduct research in the field of economic poisons;

15 t. The term "adulterated" shall apply to any economic
16 poison if its strength or purity falls below the professed
17 standard or quality as expressed on its labeling or under
18 which it is sold, or if any substance has been substituted
19 wholly or in part for the article, or if any valuable con-
20 stituent of the article has been wholly or in part abstracted.

21 u. The term "misbranded" shall apply—

22 (1) to any economic poison or device if its label-
23 ing bears any statement, design, or graphic representa-
24 tion relative thereto or to its ingredients which is false
25 or misleading in any particular;

1 (2) to any economic poison—

2 (a) if it is an imitation of or is offered for
3 sale under the name of another economic poison;

4 (b) if its labeling bears any reference to reg-
5 istration under this Act;

6 (c) if the labeling accompanying it does not
7 contain directions for use which are necessary and
8 if complied with adequate for the protection of the
9 public;

10 (d) if the label does not contain a warning
11 or caution statement which may be necessary and
12 if complied with adequate to prevent injury to living
13 man and other vertebrate animals, vegetation, and
14 useful invertebrate animals;

15 (e) if the label does not bear an ingredient
16 statement on that part of the immediate container
17 and on the outside container or wrapper, if there
18 be one, through which the ingredient statement on
19 the immediate container cannot be clearly read,
20 of the retail package which is presented or displayed
21 under customary conditions of purchase: *Provided*,
22 That the Secretary may permit the ingredient state-
23 ment to appear prominently on some other part of
24 the container, if the size or form of the container
25 makes it impracticable to place it on the part of the

1 retail package which is presented or displayed under
2 customary conditions of purchase.

3 (f) if any word, statement, or other informa-
4 tion required by or under authority of this Act
5 to appear on the label or labeling is not prominently
6 placed thereon with such conspicuousness (as com-
7 pared with other words, statements, designs, or
8 graphic matter in the labeling) and in such terms
9 as to render it likely to be read and understood by
10 the ordinary individual under customary conditions
11 of purchase and use; or

12 (g) if in the case of an insecticide, fungicide,
13 or herbicide when used as directed or in accordance
14 with commonly recognized practice it shall be in-
15 jurious to living man or other vertebrate animals,
16 or vegetation, except weeds, to which it is applied,
17 or to the person applying such economic poison.

18 PROHIBITED ACTS

19 SEC. 3. (a) It shall be unlawful for any person to
20 distribute, sell, or offer for sale in any Territory or in the
21 District of Columbia, or to ship or deliver for shipment from
22 any State, Territory, or the District of Columbia to any other
23 State, Territory, or the District of Columbia, or to any for-
24 eign country, or to receive in any State, Territory, or the
25 District of Columbia from any other State, Territory, or the

1 District of Columbia, or foreign country, and having so
2 received, deliver or offer to deliver in the original unbroken
3 package to any other person, any of the following:

4 (1) Any economic poison which has not been registered
5 pursuant to the provisions of section 4 of this Act, or
6 any economic poison if any of the claims made for it or
7 any of the directions for its use differ in substance from
8 the representations made in connection with its registra-
9 tion, or if the composition of an economic poison differs
10 from its composition as represented in connection with its
11 registration: *Provided*, That in the discretion of the Secre-
12 tary, a change in the labeling or formula of an economic
13 poison may be made within a registration period without
14 requiring reregistration of the product.

15 (2) Any economic poison unless it is in the registrant's
16 or the manufacturer's unbroken immediate container, and
17 there is affixed to such container, and to the outside con-
18 tainer or wrapper of the retail package, if there be one
19 through which the required information on the immediate
20 container cannot be clearly read, a label bearing—

21 (a) the name and address of the manufacturer,
22 registrant, or person for whom manufactured;

23 (b) the name, brand, or trade-mark under which
24 said article is sold; and

25 (c) the net weight or measure of the content:

1 *Provided*, That the Secretary may permit reasonable
2 variations.

3 (3) Any economic poison which contains any sub-
4 stance or substances in quantities highly toxic to man,
5 determined as provided in section 6 of this Act, unless the
6 label shall bear, in addition to any other matter required
7 by this Act—

8 (a) the skull and crossbones;

9 (b) the word “poison” prominently (IN RED)
10 on a background of distinctly contrasting color; and

11 (c) a statement of an antidote for the economic
12 poison.

13 (4) The economic poisons commonly known as stand-
14 ard lead arsenate, basic lead arsenate, calcium arsenate, mag-
15 nesium arsenate, zinc arsenate, zinc arsenite, sodium fluoride,
16 sodium fluosilicate, and barium fluosilicate unless they have
17 been distinctly colored or discolored as provided by regula-
18 tions issued in accordance with this Act, or any other white
19 powder economic poison which the Secretary, after investiga-
20 tion of and after public hearing on the necessity for such
21 action for the protection of the public health and the feasi-
22 bility of such coloration or discoloration, shall, by regulation,
23 require to be distinctly colored or discolored, unless it has
24 been so colored or discolored: *Provided*, That the Secretary

1 may exempt any economic poison to the extent that it is
2 intended for a particular use or uses from the coloring or dis-
3 coloring required or authorized by this section if he deter-
4 mines that such coloring or discoloring for such use or uses
5 is not necessary for the protection of the public health.

6 (5) Any economic poison which is adulterated or
7 misbranded or any device which is misbranded.

8 b. Notwithstanding any other provision of this Act, no
9 article shall be deemed in violation of this Act when intended
10 solely for export to any foreign country and prepared or
11 packed according to the specifications or directions of the
12 foreign purchaser.

13 c. It shall be unlawful—

14 (1) for any person to detach, alter, deface, or
15 destroy, in whole or in part, any label or labeling pro-
16 vided for in this Act or the rules and regulations promul-
17 gated hereunder, or to add any substance to, or take
18 any substance from, an economic poison in a manner
19 that may defeat the purpose of this Act;

20 (2) for any manufacturer, distributor, dealer, car-
21 rier, or other person to refuse, upon a request in writ-
22 ing specifying the nature or kind of economic poison
23 or device to which such request relates, to furnish to or
24 permit any person designated by the Secretary to have

1 access to and to copy such records as authorized by
2 section 5 of this Act;

3 (3) for any person to give a guaranty or under-
4 taking provided for in section 7 which is false in any
5 particular, except that a person who receives and relies
6 upon a guaranty authorized under section 7 may give
7 a guaranty to the same effect, which guaranty shall
8 contain in addition to his own name and address the
9 name and address of the person residing in the United
10 States from whom he received the guaranty or under-
11 taking; and

12 (4) for any person to use for his own advantage
13 or to reveal, other than to the Secretary, or officials
14 or employees of the United States Department of Agri-
15 culture, or other Federal agencies, or to the courts in
16 response to a subpoena, or to physicians, and in
17 emergencies to pharmacists and other qualified persons,
18 for use in the preparation of antidotes, in accordance
19 with such directions as the Secretary may prescribe,
20 any information relative to formulas of products ac-
21 quired by authority of section 4 of this Act.

22 REGISTRATION

23 SEC. 4. a. Every economic poison which is distributed,
24 sold, or offered for sale in any Territory or the District of

1 Columbia, or which is shipped or delivered for shipment
2 from any State, Territory, or the District of Columbia to
3 any other State, Territory, or the District of Columbia, or
4 which is received from any foreign country shall be reg-
5 istered with the Secretary: *Provided*, That products which
6 have the same formula, are manufactured by the same per-
7 son, the labeling of which contains the same claims, and
8 the labels of which bear a designation identifying the product
9 as the same economic poison may be registered as a single
10 economic poison; and additional names and labels shall be
11 added by supplement statements; the registrant shall file
12 with the Secretary a statement including—

13 (1) the name and address of the registrant and
14 the name and address of the person whose name will
15 appear on the label, if other than the registrant;

16 (2) the name of the economic poison;

17 (3) a complete copy of the labeling accompanying
18 the economic poison and a statement of all claims to
19 be made for it, including the directions for use; and

20 (4) if requested by the Secretary, a full descrip-
21 tion of the tests made and the results thereof upon
22 which the claims are based.

23 b. The Secretary, whenever he deems it necessary for
24 the effective administration of this Act, may require the
25 submission of the complete formula of the economic poison.

1 If it appears to the Secretary that the composition of the
2 article is such as to warrant the proposed claims for it and
3 if the article and its labeling and other material required
4 to be submitted comply with the requirements of section 3
5 of this Act, he shall register it.

6 c. If it does not appear to the Secretary that the article
7 is such as to warrant the proposed claims for it or if the
8 article and its labeling and other material required to be
9 submitted do not comply with the provisions of this Act, he
10 shall notify the registrant of the manner in which the article,
11 labeling, or other material required to be submitted fail to
12 comply with the Act so as to afford the registrant an oppor-
13 tunity to make the corrections necessary. If, upon receipt
14 of such notice, the registrant insists that such corrections are
15 not necessary and requests in writing that it be registered,
16 the Secretary shall register the article, under protest, and
17 such registration shall be accompanied by a warning, in writ-
18 ing, to the registrant of the apparent failure of the article to
19 comply with the provisions of this Act. In order to protect
20 the public, the Secretary, on his own motion, may at any
21 time, cancel the registration of an economic poison and in
22 lieu thereof issue a registration under protest in accordance
23 with the foregoing procedure. In no event shall registration
24 of an article, whether or not protested, be construed as a

1 defense for the commission of any offense prohibited under
2 section 3 of this Act.

3 d. Notwithstanding any other provision of this Act,
4 registration is not required in the case of an economic poison
5 shipped from one plant to another plant operated by the
6 same person and used solely at such plant as a constituent
7 part to make an economic poison which is registered under
8 this Act.

9 e. The Secretary is authorized to cancel the registration
10 of any economic poison at the end of a period of five years
11 following the registration of such economic poison or at the
12 end of any five-year period thereafter, unless the registrant,
13 prior to the expiration of each such five-year period, requests
14 in accordance with regulations issued by the Secretary that
15 such registration be continued in effect.

16 BOOKS AND RECORDS

17 SEC. 5. For the purposes of enforcing the provisions
18 of this Act, any manufacturer, distributor, carrier, dealer,
19 or any other person who sells or offers for sale, delivers or
20 offers for delivery, or who receives or holds any economic
21 poison or device subject to this Act, shall, upon request of
22 any employee of the United States Department of Agriculture
23 or any employee of any State, Territory, or political
24 subdivision, duly designated by the Secretary, furnish or
25 permit such person at all reasonable times to have access

1 to, and to copy all records showing the delivery, movement,
2 or holding of such economic poison or device, including the
3 quantity, the date of shipment and receipt, and the name
4 of the consignor and consignee; and in the event of the
5 inability of any person to produce records containing such
6 information, all other records and information relating to
7 such delivery, movement, or holding of the economic poison
8 or device. Notwithstanding this provision, however, the
9 specific evidence obtained under this section shall not be
10 used in a criminal prosecution of the person from whom
11 obtained.

12 ENFORCEMENT

13 SEC. 6. a. The Secretary (except as otherwise pro-
14 vided in this section) is authorized to make rules and regu-
15 lations for carrying out the provisions of this Act, including
16 the collection and examination of samples of economic
17 poisons and devices subject to this Act and the determination
18 and establishment of suitable names to be used in the in-
19 gredient statement. The Secretary is, in addition, authorized
20 after opportunity for hearing—

21 (1) to declare a pest any form of plant or animal
22 life or virus which is injurious to plants, man, domestic
23 animals, articles, or substances;

24 (2) to determine economic poisons, and quantities

1 of substances contained in economic poisons, which are
2 highly toxic to man; and

3 (3) to determine standards of coloring or discolor-
4 ing for economic poisons, and to subject economic
5 poisons to the requirements of section 3a (4) of this
6 Act.

7 b. The Secretary of the Treasury and the Secretary of
8 Agriculture shall jointly prescribe regulations for the enforce-
9 ment of section 10 of this Act.

10 c. The examination of economic poisons or devices shall
11 be made in the United States Department of Agriculture
12 or elsewhere as the Secretary may designate for the purpose
13 of determining from such examination whether they comply
14 with the requirements of this Act, and if it shall appear
15 from any such examination that they fail to comply with the
16 requirements of this Act, the Secretary shall cause notice
17 to be given to the person against whom criminal proceedings
18 are contemplated. Any person so notified shall be given an
19 opportunity to present his views, either orally or in writing,
20 with regard to such contemplated proceedings, and if in the
21 opinion of the Secretary it appears that the provisions of
22 this Act have been violated by such person, then the
23 Secretary shall certify the facts to the proper United States
24 attorney, with a copy of the results of the analysis or the
25 examination of such article: *Provided*, That nothing in this

1 Act shall be construed as requiring the Secretary to report
2 for prosecution or for the institution of libel proceedings
3 minor violations of this Act whenever he believes that the
4 public interest will be adequately served by a suitable written
5 notice of warning.

6 d. It shall be the duty of each United States attorney,
7 to whom the Secretary or his agents shall report any viola-
8 tion of this Act, to cause appropriate proceedings to be
9 commenced and prosecuted in the proper courts of the United
10 States without delay.

11 e. The Secretary shall, by publication in such manner
12 as he may prescribe, give notice of all judgments entered
13 in actions instituted under the authority of this Act.

14 EXEMPTIONS

15 SEC. 7. a. The penalties provided for a violation of
16 section 3a of this Act shall not apply to—

17 (1) any person who establishes a guaranty signed
18 by, and containing the name and address of, the regis-
19 trant or person residing in the United States from whom
20 he purchased and received in good faith the article in
21 the same unbroken package, to the effect that the article
22 was lawfully registered at the time of sale and delivery
23 to him, and that it complies with the other requirements
24 of this Act, designating this Act. In such case the
25 guarantor shall be subject to the penalties which would

1 otherwise attach to the person holding the guaranty
2 under the provisions of this Act;

3 (2) any carrier while lawfully engaged in trans-
4 porting an economic poison or device if such carrier upon
5 request by a person duly designated by the Secretary
6 shall permit such person to copy all records showing the
7 transactions in and movement of the articles;

8 (3) to public officials while engaged in the per-
9 formance of their official duties;

10 (4) to the manufacturer or shipper of an economic
11 poison for experimental use only by or under the super-
12 vision of any Federal or State agency authorized by law
13 to conduct research in the field of economic poisons; or
14 by others if a permit has been obtained before shipment
15 in accordance with regulations promulgated by the
16 Secretary.

17 **PENALTIES**

18 SEC. 8. a. Any person violating section 3a (1) of
19 this Act shall be guilty of a misdemeanor and shall on con-
20 viction be fined not more than \$1,000.

21 b. Any person violating any provision other than sec-
22 tion 3a (1) of this Act shall be guilty of a misdemeanor and
23 shall upon conviction be fined not more than \$500 for the
24 first offense, and on conviction for each subsequent offense
25 be fined not more than \$1,000 or imprisoned for not more

1 than one year, or both such fine and imprisonment: *Provided*,
2 That an offense committed more than five years after the last
3 previous conviction shall be considered a first offense: *And*
4 *provided further*, That in any case where a registrant was
5 issued a warning by the Secretary pursuant to the provisions
6 of section 4 c of this Act, he shall in each instance upon con-
7 viction for an offense concerning which he had been so
8 warned, be fined not more than \$1,000 or imprisoned for
9 not more than one year, or both such fine and imprisonment;
10 and the registration of the article with reference to which the
11 violation occurred shall terminate automatically. An article
12 the registration of which has been terminated may not again
13 be registered unless the article, its labeling, and other material
14 required to be submitted appear to the Secretary to comply
15 with all the requirements of this Act.

16 c. Notwithstanding any other provision of this section,
17 in case any person, with intent to defraud, uses or reveals
18 information relative to formulas of products acquired under
19 the authority of section 4 of this Act, he shall be fined not
20 more than \$10,000 or imprisoned for not more than three
21 years, or both such fine and imprisonment.

22 d. When construing and enforcing the provisions of
23 this Act, the act, omission, or failure, of any officer, agent,
24 or other person acting for or employed by any person
25 shall in every case be also deemed to be the act, omission,

1 or failure of such person as well as that of the person
2 employed.

3

SEIZURES

4 SEC. 9. a. Any economic poison or device that is being
5 transported from one State, Territory, or District to another,
6 or, having been transported, remains unsold or in original
7 unbroken packages, or that is sold or offered for sale in
8 the District of Columbia or any Territory, or that is
9 imported from a foreign country, shall be liable to be pro-
10 ceeded against in any district court of the United States
11 in the district where it is found and seized for confiscation
12 by a process of libel for condemnation—

13

(1) in the case of an economic poison—

14

(a) if it is adulterated or misbranded;

15

(b) if it has not been registered pursuant to
16 the provisions of section 4 of this Act;

17

(c) if it fails to bear on its label the informa-
18 tion required by this Act; or

19

(d) if it is a white powder economic poison
20 and is not colored as required under this Act; or

21

(2) in the case of a device if it is misbranded.

22

b. If the article is condemned it shall, after entry of
23 the decree, be disposed of by destruction or sale as the court
24 may direct and the proceeds, if sold, less the legal costs,
25 shall be paid into the Treasury of the United States, but

1 the article shall not be sold contrary to the provisions of
2 this Act or of the laws of the jurisdiction in which it is
3 sold: *Provided*, That upon the payment of the costs of the
4 libel proceedings and the execution and delivery of a good
5 and sufficient bond conditioned that the article shall not be
6 sold or otherwise disposed of contrary to the provisions of
7 this Act or the laws of any State, Territory, or District in
8 which sold, the court may direct that such articles be de-
9 livered to the owner thereof. The proceedings of such libel
10 cases shall conform, as near as may be, to the proceedings
11 in admiralty, except that either party may demand trial by
12 jury of any issue of fact joined in any case, and all such
13 proceedings shall be at the suit of and in the name of the
14 United States.

15 c. When a decree of condemnation is entered against
16 the article, court costs and fees, storage, and other proper
17 expenses shall be awarded against the person, if any, inter-
18 vening as claimant of the article.

19 IMPORTS

20 SEC. 10. The Secretary of the Treasury shall notify the
21 Secretary of Agriculture of the arrival of economic poisons
22 and devices offered for importation and shall deliver to the
23 Secretary of Agriculture, upon his request, samples of eco-
24 nomic poisons or devices which are being imported or offered
25 for import into the United States, giving notice to the

1 owner or consignee, who may appear before the Secretary
2 of Agriculture and have the right to introduce testimony.
3 If it appears from the examination of a sample that it is
4 adulterated or misbranded or otherwise violates the pro-
5 hibitions set forth in this Act, or is otherwise dangerous to
6 the health of the people of the United States, or is of a
7 kind forbidden entry into or forbidden to be sold or restricted
8 in sale in the country in which it is made or from which
9 it is exported, the said article may be refused admission,
10 and the Secretary of the Treasury shall refuse delivery to
11 the consignee and shall cause the destruction of any goods
12 refused delivery which shall not be exported by the con-
13 signee within three months from the date of notice of such
14 refusal under such regulations as the Secretary of the Treas-
15 ury may prescribe: *Provided*, That the Secretary of the
16 Treasury may deliver to the consignee such goods pending
17 examination and decision in the matter on execution of a
18 penal bond for the amount of the full invoice value of such
19 goods, together with the duty thereon, and on refusal to
20 return such goods for any cause to the custody of the Secre-
21 tary of the Treasury, when demanded, for the purpose of
22 excluding them from the country, or for any other purpose,
23 said consignee shall forfeit the full amount of the bond:
24 *And provided further*, That all charges for storage, cartage,
25 and labor on goods which are refused admission or delivery

1 shall be paid by the owner or consignee, and in default of
2 such payment shall constitute a lien against any future
3 importation made by such owner or consignee.

4 DELEGATION OF DUTIES

5 SEC. 11. All authority vested in the Secretary by virtue
6 of the provisions of this Act may with like force and effect
7 be executed by such employees of the United States Depart-
8 ment of Agriculture as the Secretary may designate for the
9 purpose.

10 AUTHORIZATION FOR APPROPRIATIONS AND EXPENDITURES

11 SEC. 12. a. There is hereby authorized to be appropri-
12 ated, out of any moneys in the Treasury not otherwise appro-
13 priated, such sums as may be necessary for the purposes
14 and administration of this Act. In order to carry out the
15 provisions of this Act, which take effect prior to the repeal
16 of the Insecticide Act of 1910, appropriations available for
17 the enforcement of such Act are authorized to be made
18 available.

19 b. The Secretary is authorized from the funds appro-
20 priated for this Act to make such expenditures as he deems
21 necessary, including rents, travel, supplies, books, samples,
22 testing devices, furniture, equipment, and such other expenses
23 as may be necessary to the administration of this Act.

24 COOPERATION

25 SEC. 13. The Secretary is authorized to cooperate with

1 any other department or agency of the Federal Government
2 and with the official agricultural or other regulatory agency
3 of any State, or any State, Territory, District, possession, or
4 any political subdivision thereof, in carrying out the pro-
5 visions of this Act, and in securing uniformity of regulations.

6 SEPARABILITY

7 SEC. 14. If any provision of this Act is declared un-
8 constitutional, or the applicability thereof to any person or
9 circumstance is held invalid, the constitutionality of the
10 remainder of this Act and the applicability thereof to other
11 persons and circumstances shall not be affected thereby.

12 EFFECTIVE DATE

13 SEC. 15. All provisions of this Act, except section 3,
14 "Prohibited Acts"; section 8, "Penalties"; section 9, "Sei-
15 zures"; and section 10, "Imports", shall take effect upon
16 enactment, and sections 3, 8, 9, and 10 of this Act shall
17 take effect as follows: (1) As to devices, upon enactment;
18 (2) as to rodenticides and herbicides, six months after
19 enactment; and (3) as to insecticides, fungicides, and all
20 other economic poisons, one year after enactment: *Provided*,
21 That the Secretary, upon application, may at any time within
22 one year after sections 3, 8, 9, and 10 of this Act become
23 applicable to devices, rodenticides and herbicides, and insecti-
24 cides, fungicides, and other economic poisons, respectively,

1 if he determines that such action will not be unduly detri-
2 mental to the public interest, and is necessary to avoid
3 hardship, exempt, under such terms and conditions as he
4 may prescribe, any economic poison from the provisions of
5 this Act if such economic poison was labeled, shipped, and
6 delivered by the manufacturer thereof prior to the time the
7 sections of this Act referred to above become applicable to
8 such economic poison and in case the economic poison is an
9 insecticide or fungicide if its sale, delivery, or shipment has
10 not been and will not be in violation of the provisions of the
11 Insecticide Act of 1910.

12 REPEALS

13 SEC. 16. The Insecticide Act of 1910, approved April
14 26, 1910 (36 Stat. 331, 7 U. S. C. 121-134), is hereby
15 repealed one year after the date of the enactment of this
16 Act: *Provided*, That, with respect to violations, liabilities
17 incurred, or appeals taken prior to said date, and with
18 respect to sales, shipments, or deliveries of insecticides and
19 fungicides under an exemption granted by the Secretary
20 under section 15, all provisions of the Insecticide Act of
21 1910 shall be deemed to remain in full force for the purpose
22 of sustaining any proper suit, action, or other proceeding
23 with respect to any such violations, liabilities, appeals, or

- 1 to such sales, shipments, or deliveries of insecticides and
- 2 fungicides exempted by the Secretary under section 15.

Passed the House of Representatives May 12, 1947.

Attest:

JOHN ANDREWS,

Clerk.

80TH CONGRESS
1ST SESSION

H. R. 1237

AN ACT

To regulate the marketing of economic poisons
and devices, and for other purposes.

MAY 13 (legislative day, APRIL 21), 1947

Read twice and referred to the Committee on
Agriculture and Forestry

DIGEST OF
CONGRESSIONAL PROCEEDINGS
OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
Division of Legislative Reports
(For Department staff only)

Issued May 27, 1947
For actions of May 26, 1947
80th-1st, No. 99

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HIGHLIGHTS: House committee reported rule waiving points of order on agricultural appropriation bill. Rep. Gamble introduced bill to end sugar rationing for home consumption. House committee reported bill continuing retirement benefits for separated employees. Senate conferees appointed on wool bill. Senate committee reported bill to regulate marketing of insecticides, rodenticides, weed killers, etc. Senate committee reported Treasury-Post Office appropriation bill.

HOUSE

1. AGRICULTURAL APPROPRIATION BILL. The House Committee made a general reduction in the Budget estimate for LAND UTILIZATION PROJECTS of \$1,660,000 instead of eliminating increases for reconstruction and repair of dams and spillways as reported in Digest 98. The Rules Committee reported without amendment H. Res. 218, which provides "That during the consideration of the bill (H. R. 3601) making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1948, and for other purposes, all points of order against the bill or any provisions contained therein are hereby waived" (H. Rept. 463) (pp. 5954, 5963). The Daily Digest says this bill will be considered today (p. D295).
2. CIVIL-SERVICE RETIREMENT. The Post Office and Civil Service Committee reported without amendment H. R. 3511, which extends until June 30, 1948, the period during which annuities are provided for separated employees at least 55 years of age and who have served at least 25 years (H. Rept. 461) (p. 5963).
3. HOUSING. Received from the Hawaii Legislature a memorial favoring S. 866, the Taft-Wagner-Ellender housing bill (p. 5964).

SENATE

4. WOOL. Sens. Aiken, Bushfield, Young, Thomas (Okla.), and Ellender were appointed conferees on S. 814, the wool price-support bill (pp. 5928-9). The amendments agreed to in the House are printed in the Congressional Record on the pages noted above. House conferees not yet appointed.
5. MARKETING. The Agriculture and Forestry Committee reported without amendment H.R. 1237, to regulate the marketing of insecticides, rodenticides, weed killers, pest-control devices, etc. (S.Rept. 199) (p. 5926).
6. TREASURY-POST OFFICE APPROPRIATION BILL, 1948. The Appropriations Committee reported with amendments this bill, H.R. 2436 (S.Rept. 201) (p. 5926).
7. GEOGRAPHICAL NAMES. The Public Lands Committee reported without amendment S.1262,

to establish a Board on Geographic Names, on which the Department would be represented, to function conjointly with the Secretary of Interior in standardizing geographic names for the purpose of eliminating duplication in the Federal Government (S.Rept. 205) (p. 5926).

8. HIGHWAYS. The Public Works Committee reported without amendment H.R. 1874, to provide that funds apportioned to States under the Federal Aid Highway Act of 1944 shall remain available for 2 years after they are authorized (S.Rept. 200) (p. 5926).
9. LANDS. The Public Lands Committee reported without amendment S. 1185, to authorize the Secretary of Interior to dispose of sand, stone, gravel, and timber or other forest products on U.S. public lands if the disposal is not otherwise expressly authorized by law, prohibited by law, and would not be detrimental to the public interest. National forest lands would not come under this jurisdiction and where lands have been withdrawn in aid of a function of a Federal department or agency other than the Interior Department or of a State, Territory, etc., disposal would be made only with approval of such Federal department or other agency (S.Rept. 204) (p. 5926).
10. FERTILIZERS. Received from the Kansas Farm Bureau a telegram favoring S. 1251, the national fertilizer-policy bill (p. 5926).
11. TAXATION. Continued debate on H.R. 1, the individual income tax-reduction bill (pp. 5929-52).
12. FARM LOANS. The Agriculture and Forestry Committee is expected to act on May 28 on S. 925, to transfer the Land Bank Commissioner loan service to the Federal Land Bank System (p. D294).
13. HOUSING. Received a Hawaii Legislature resolution favoring S. 866, the Taft-Ellender-Wagner housing bill (p. 5925).

BILLS INTRODUCED

14. GRANT LANDS. S. 1348, by Sen. Cordon, Oreg., to provide for the addition of certain revested Oreg. and Calif. railroad grant lands to the Silver Creek recreational demonstration project, Oreg. To Public Lands Committee. (p. 5927.)
15. INFORMATION. S.Con.Res. 16, by Sen. Hatch, N.Mex., to establish a joint committee to investigate Government information programs. To Foreign Relations Committee. (p. 5927) Remarks of author.
16. SUGAR RATIONING. H.R. 3612, by Rep. Gamble, N.Y., to amend the Sugar Control Extension Act so as to terminate the authority to allocate or ration refined sugar among users for home consumption. To Banking and Currency Committee. (p. 5963.)

ITEMS IN APPENDIX

17. WOOL. Speech in the House by Rep. Crawford, Mich., opposing reciprocal trade agreements with respect to wool (pp. A2606-7).
18. EDUCATION. Sen. Sparkman, Ala., inserted his recent address on Federal aid to education (pp. A2609-11).
19. RECLAMATION. Sen. Magnuson, Wash., inserted his statement before the Appropriations Committee urging restoration of reclamation funds in the Interior Appro-

wish so earnestly to avoid, namely, the tragedy of another war."

Washington's statement of a fundamental requirement of our democratic system has now become an urgent necessity to the survival of that system. The drastic developments in the speed and destructive power of modern war make unavoidable the choice presented by General Marshall. We can be guided by the founder of our democracy and insure our system of a reasonable chance of survival; or we can be guided by wishful thinking, and stake the survival of our system on a reckless gamble.

TRANSACTION OF ROUTINE BUSINESS

By unanimous consent, the following routine business was transacted:

EXECUTIVE COMMUNICATIONS, ETC.

The PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

REINCORPORATION OF THE INSTITUTE OF INTER-AMERICAN AFFAIRS

A letter from the Secretary of State, transmitting a draft of proposed legislation to provide for the reincorporation of the Institute of Inter-American Affairs and for other purposes (with accompanying papers); to the Committee on Foreign Relations.

UTILIZATION OF APPROPRIATIONS IN CONNECTION WITH UNRRA LIQUIDATION

A letter from the Secretary of State, transmitting a draft of proposed legislation to enable the President to utilize the appropriations for United States participation in the work of the United Nations Relief and Rehabilitation Administration for meeting administrative expenses of United States Government agencies in connection with United Nations Relief and Rehabilitation Administration Liquidation (with accompanying papers); to the Committee on Foreign Relations.

PARTICIPATION IN INTER-AMERICAN CONFERENCE ON SOCIAL SECURITY

A letter from the Under Secretary of State, transmitting a draft of proposed legislation providing for participation by the United States in the Inter-American Conference on Social Security and its Permanent Committee and authorizing an appropriation therefor (with accompanying papers); to the Committee on Foreign Relations.

AUTHORIZATION FOR CERTAIN TRANSFERS AND CONSOLIDATIONS OF APPROPRIATIONS BY FEDERAL SECURITY ADMINISTRATOR

A letter from the Acting Administrator of the Federal Security Agency, transmitting a draft of proposed legislation to authorize intra-agency transfers and consolidations of appropriations by the Federal Security Administrator, and for other purposes (with an accompanying paper); to the Committee on Expenditures in the Executive Departments.

PETITIONS AND MEMORIALS

Petitions, etc., were laid before the Senate, or presented, and referred as indicated:

By the PRESIDENT pro tempore:

A concurrent resolution of the Legislature of the Territory of Hawaii; ordered to lie on the table:

"Senate Concurrent Resolution 17

"Concurrent resolution requesting the Congress of the United States to enact the Wagner-Ellender-Taft bill, S. 866, of the Eightieth Congress, first session.

"Whereas the Territory of Hawaii is faced with a housing crisis so far reaching in scope and so serious in nature that the Territory is unable to cope with it fully if unaassisted by Federal aid; and

"Whereas until the enactment of further legislation by the Congress additional Federal

funds will not be available to alleviate the discomfort and suffering of countless residents of the Territory who are now living in inadequate accommodations; and

"Whereas the Wagner-Ellender-Taft bill, S. 866 of the Eightieth Congress, first session, entitled 'A bill to establish a national housing objective and the policy to be followed in the attainment thereof; to facilitate sustained progress in the attainment of such objective and to provide for the coordinated execution of such policy through a National Housing Commission, and for other purposes,' presents a well-considered program for housing which, if enacted, would be of aid to all the States as well as the Territory in assuring adequate housing both through privately financed construction and public low-rent projects: Now, therefore, be it

"Resolved by the Senate of the twenty-fourth session of the Legislature of the Territory of Hawaii (the House of Representatives concurring), That the Congress of the United States be, and it is hereby, requested to enact said Wagner-Ellender-Taft bill; and be it further

"Resolved, That certified copies of this resolution be forwarded to the President of the United States, to the President of the Senate, and to the Speaker of the House of Representatives of the Congress, to the Secretary of the Interior, and to the Delegate to Congress from Hawaii."

A resolution adopted by the Engineers' Club, of Minneapolis, Minn., expressing that club's appreciation and gratification for changing the name of Boulder Dam to Hoover Dam; ordered to lie on the table.

A resolution adopted by the American Veterans' Committee, Territory of Hawaii, Chapter No. 7, Lower Manoa, Honolulu, T. H., favoring the enactment of the bill (H. R. 857) to remove the racial restrictions upon naturalization and to amend the immigration laws, and for other purposes; to the Committee on the Judiciary.

Petitions of the members of the Pensacola Townsend Club, No. 1, and sundry citizens of Boynton Beach, both in the State of Florida, praying for the enactment of the so-called Townsend plan to provide old-age assistance; to the Committee on Finance.

By Mr. LUCAS:

A resolution adopted by the House of Representatives of the General Assembly of the State of Illinois, favoring location of an atomic-energy laboratory on Government-owned land near Elwood, Ill.; to the Joint Committee on Atomic Energy.

(See resolution printed in full when laid before the Senate by the President pro tempore on May 23, 1947, pp. 5851-5852, CONGRESSIONAL RECORD.)

MISSOURI LEGISLATURE CONCURRENT RESOLUTION APPROVING PRINCIPLE OF WORLD FEDERATION

Mr. DONNELL. Mr. President, I ask unanimous consent to present for appropriate reference, and to have incorporated in the body of the RECORD Senate Concurrent Resolution No. 6, adopted on May 13, 1947, by the Senate, and on May 15, 1947, by the House of Representatives of the Missouri Legislature, being a concurrent resolution approving the principle of world federation.

There being no objection, the concurrent resolution was received, referred to the Committee on Foreign Relations, and, under the rule, ordered to be printed in the RECORD, as follows:

Senate Concurrent Resolution 6

Concurrent resolution approving the principle of world federation

Whereas it is necessary at the present juncture of human affairs to enlarge the bases of organized society by establishing a

government for the community of nations, in order to preserve civilization and enable mankind to live in peace and be free, the following principles and objectives are hereby enunciated in—

"THE DECLARATION OF THE FEDERATION OF THE WORLD

"Man, the source of all political authority, is a manifold political being. He is a citizen of several communities: the state, the nation, and the world. To each of these communities he owes inalienable obligations and from each he receives enduring benefits.

"Communities may exist for a time without being incorporated but, under the stress of adversity, they disintegrate unless legally organized. Slowly, but purposefully, through the centuries civilization has united the world, integrating its diverse local interests and creating an international community that now embraces every region and every person on the globe. This community has no government, and communities without government perish. Either this community must succumb to anarchy or submit to the restraints of law and order.

"Governments can only be established through the deliberate efforts of men. Man has struggled from time immemorial to endow the individual with certain fundamental rights whose very existence is now imperiled. Among those rights is man's freedom to worship, speak, write, assemble, and vote without arbitrary interference. To safeguard these liberties as a heritage for the human race, governments were instituted among men, with constitutional guarantees against the despotic exercise of political authority, such as are provided by elected parliaments, trial by jury, habeas corpus, and due process of law. Man must now either consolidate his historic rights or lose them for generations to come.

"The ceaseless changes wrought in human society by science, industry, and economics, as well as by the spiritual, social, and intellectual forces which impregnate all cultures, makes political and geographical isolation of nations hereafter impossible. The organic life of the human race is at last indissolubly unified and can never be severed, but it must be politically ordained and made subject to law. Only a government capable of discharging all the functions of sovereignty in the executive, legislative, and judicial spheres can accomplish such a task. Civilization now requires laws, in the place of treaties, as instruments to regulate commerce between peoples. The intricate conditions of modern life have rendered treaties ineffectual and obsolete, and made laws essential and inevitable. The age of treaties is dead; the age of laws is here.

"Governments, limited in their jurisdiction to local geographical areas, can no longer satisfy the needs or fulfill the obligations of the human race. Just as feudalism served its purpose in human history and was superseded by nationalism, so has nationalism reached its apogee in this generation and yielded its hegemony in the body politic to internationalism. The first duty of government is to protect life and property, and when governments cease to perform this function, they capitulate on the fundamental principle of their *raison d'être*. Nationalism, moreover, is no longer able to preserve the political independence or the territorial integrity of nations, as recent history so tragically confirms. Sovereignty is an ideological concept without geographical barriers. It is better for the world to be ruled by an international sovereignty of reason, social justice, and peace than by diverse national sovereignties organically incapable of preventing their own dissolution by conquest. Mankind must pool its resources of defense if civilization is to endure.

"History has revealed but one principle by which free peoples, inhabiting extensive territories, can unite under one government

without impairing their local autonomy. That principle is federation, whose virtue preserves the whole without destroying its parts and strengthens its parts without jeopardizing the whole. Federation vitalizes all nations by endowing them with security and freedom to develop their respective cultures without menace of foreign domination. It regards as sacrosanct man's personality, his rights as an individual and as a citizen and his role as a partner with all other men in the common enterprise of building civilization for the benefit of mankind. It suppresses the crime of war by reducing to the ultimate minimum the possibility of its occurrence. It renders unnecessary the further paralyzing expenditure of wealth for belligerent activity, and cancels through the ages the mortgages of war against the fortunes and services of men. It releases the full energies, intelligence, and assets of society for creative, ameliorative, and redemptive work on behalf of humanity. It recognizes man's morning vision of his destiny as an authentic potentiality. It apprehends the entire human race as one family, human beings everywhere as brothers and all nations as component parts of an indivisible community.

"There is no alternative to the federation of all nations except endless war. No substitute for the federation of the world can organize the international community on the basis of freedom and permanent peace. Even if continental, regional or ideological federations were attempted, the governments of these federations, in an effort to make impregnable their separate defenses, would be obliged to maintain stupendously competitive armies and navies, thereby condemning humanity indefinitely to exhaustive taxation, compulsory military service and ultimate carnage, which history reveals to be not only criminally futile but positively avoidable through judicious foresight in federating all nations. No nation should be excluded from membership in the federation of the world that is willing to limit its military, naval, and air forces, retaining only a constabulary sufficient to police its territory and to maintain order within its jurisdiction, provided that the eligible voters of that nation are permitted the free expression of their opinions at the polls.

"It being our profound and irrevocable conviction:

"That man should be forever free and that his historic rights as an individual and as a citizen should be protected by all the safeguards sanctioned by political wisdom and experience.

"That governments are essential to the existence of communities and that the absence of government is anarchy.

"That there exists an international community, encompassing the entire world, which has no government and which is destined, either to be ruthlessly dominated and exploited by totalitarianism or to be federated by democracy upon the principle of freedom for all nations and individuals.

"That all human beings are citizens of this world community, which requires laws and not treaties for its government.

"That world federation is the keystone in the arch of civilization, humanity's charter of liberty for all peoples, and the signet authenticating at last the union of the nations in freedom and peace.

"That there are supreme moments in history when nations are summoned, as trustees of civilization, to defend the heritage of the ages and to create institutions essential for human progress. In the providence of God, such a crisis is this hour, compelling in duty and unprecedented in responsibility—a fateful moment when men meet destiny for the fulfillment of historic tasks": Now, therefore, be it

Resolved by the senate (the house of representatives concurring):

SECTION 1. That the General Assembly of Missouri does hereby solemnly declare that all peoples of the earth should now be united in a world federation, and requests the Senators and Members of the House of Representatives in Congress from the State of Missouri to support and vote for a resolution in the Congress of the United States, approving the principle of world federation and requesting the President of the United States to initiate the procedure necessary to formulate a constitution for the federation of the world, which shall be submitted to each nation for its ratification.

SEC. 2. That a copy of this resolution be sent to each of the Senators and Members of the House of Representatives in Congress from the State of Missouri.

SEC. 3. That this resolution shall be in full force and effect from and after its ratification.

FARM BUREAU SOIL CONSERVATION AND FERTILIZER PROGRAM

Mr. CAPPER. Mr. President, I have received a telegram from H. A. Praeger, president, Kansas Farm Bureau, expressing approval of Senate bill 1251, known as the Farm Bureau soil conservation and fertilizer program. I ask unanimous consent to present the telegram and request that it be appropriately referred and printed in the RECORD.

There being no objection, the telegram was received, referred to the Committee on Agriculture and Forestry, and ordered to be printed in the RECORD, as follows:

HOISINGTON, KANS., May 15, 1947.

Hon. ARTHUR CAPPER,
Senate Office Building,
Washington, D. C.:

Thank you for sponsoring S. 1251, the Farm Bureau soil conservation and fertilizer measure. Forty thousand Kansas farmers who are members of Kansas Farm Bureau are asking Congress to pass this bill. Appreciate your influence for an immediate hearing in the committee of this proposed legislation. Your cooperation in getting this bill through the Senate appreciated.

H. A. PRAEGER,
President, Kansas Farm Bureau.

UNIFORM MARRIAGE AND DIVORCE LAW

Mr. CAPPER. Mr. President, I ask unanimous consent to have printed in the body of the RECORD an editorial published recently by the Presbyterian magazine of Philadelphia, endorsing the Capper divorce bill now before the Senate Judiciary Committee.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

A BILL TO SUPPORT

Hundreds of bills go into the hopper in the halls of Congress, but few emerge from the pigeonholes of committees. Senator CAPPER has introduced one which should interest all citizens who are troubled by the lax divorce laws of most of the States. His bill would establish, by constitutional amendment, a uniform Federal divorce law. It would prohibit divorce except on one of these six grounds: adultery, cruel and inhuman treatment, abandonment, or nonsupport for 1 year, habitual drunkenness, incurable insanity, conviction for an infamous crime. Although such a law would mean a relaxation in such States as New York, it would mean a great improvement in the conditions that now exist in quite a few States. It would wipe out overnight the scandalous divorce mills of such

States as Florida and Nevada. Reno would sink again to its rightful level as a frontier town—or, rather, it would rise to that decent level. And although the Capper bill does not conform to the Biblical and Christian standard, it promises so much in approaching that ideal that it should receive the hearty support of all Christian citizens and churches. Fanatical supporters of State's rights should keep their hands off. Here is a moral issue that concerns the whole Nation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CAPPER, from the Committee on Agriculture and Forestry:

H. R. 1237. A bill to regulate the marketing of economic poisons and devices, and for other purposes; without amendment (Rept. No. 199).

By Mr. ECTON, from the Committee on Public Lands:

H. R. 2353. A bill to authorize the patenting of certain public lands to the State of Montana or to the Board of County Commissioners of Hill County, Mont., for public-park purposes; without amendment (Rept. No. 202).

By Mr. BUTLER, from the Committee on Public Lands:

S. 1318. A bill to provide funds for cooperation with the school board of the Moclips-Aloha district for the construction and equipment of a new school building in the town of Moclips, Grays Harbor County, Wash., to be available to both Indian and non-Indian children; with an amendment (Rept. No. 203).

By Mr. CORDON:

From the Committee on Appropriations:

H. R. 2436. A bill making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1948, and for other purposes; with amendments (Rept. No. 201).

From the Committee on Public Lands:

S. 1185. A bill to provide for the disposal of materials on the public lands of the United States; without amendment (Rept. No. 204); and

S. 1262. A bill to provide a central authority for standardizing geographic names for the purpose of eliminating duplication in standardizing such names among the Federal departments, and for other purposes; without amendment (Rept. No. 205).

CONSTRUCTION OF RURAL POST ROADS—REPORT OF A COMMITTEE

Mr. COOPER. Mr. President, from the Committee on Public Works, I ask unanimous consent to report favorably, without amendment, the bill (H. R. 1874) to amend the act entitled "An act to provide that the United States shall aid the States in the construction of rural post roads, and for other purposes," approved July 11, 1916, as amended and supplemented, and for other purposes, and I submit a report (No. 200) thereon. Similar bills were introduced in the Senate by the Senator from Iowa [Mr. WILSON] and by the Senators from Alabama [Mr. HILL and Mr. SPARKMAN].

The PRESIDENT pro tempore. Without objection, the report will be received, and the bill will be placed on the calendar.

BILLS AND JOINT RESOLUTIONS INTRODUCED

Bills and joint resolutions were introduced, read the first time, and, by unani-

REGULATING THE MARKETING OF ECONOMIC POISONS
AND DEVICES

MAY 26 (legislative day, APRIL 21), 1947.—Ordered to be printed

Mr. CAPPER, from the Committee on Agriculture and Forestry, submitted the following

REPORT

[To accompany H. R. 1237]

The Committee on Agriculture and Forestry, to whom was referred the bill (H. R. 1237) to regulate the marketing of economic poisons and devices, and for other purposes, having considered same, report thereon with a recommendation that it do pass without amendment.

The report of the House of Representatives (H. Rept. No. 313) on the bill is attached hereto and made a part of said report.

[H. Rept. No. 313, 80th Cong., 1st sess.]

The Committee on Agriculture, to whom was referred the bill (H. R. 1237) to regulate the marketing of economic poisons and devices, and for other purposes, having considered the same, report thereon with a recommendation that it do pass, with the following amendments:

Page 2, line 6, strike out the words "or weeds".

Page 6, line 11, strike out the word "instructions" and insert in lieu thereof the word "directions".

Page 7, line 2, strike out the semicolon and insert in lieu thereof a colon and add the following: "Provided, That the Secretary may permit the ingredient statement to appear prominently on some other part of the container, if the size or form of the container makes it impracticable to place it on the part of the retail package which is presented or displayed under customary conditions of purchase."

Page 8, line 4, insert after the phrase "deliver or offer to deliver" the following: "in the original unbroken package"; and insert a comma after the word "person".

Page 9, line 16, strike out the article "a".

Page 14, line 14, insert a new subsection c, as follows:

"e. The Secretary is authorized to cancel the registration of any economic poison at the end of a period of five years following the registration of such economic poison or at the end of any five-year period thereafter, unless the registrant, prior to the expiration of each such five-year period, requests in accordance with regulations issued by the Secretary that such registration be continued in effect."

Page 15, line 15, strike out the period after the word "Act" and insert the following: "and the determination and establishment of suitable names to be used in the ingredient statement."

Page 18, line 22, strike out the word "of" and insert in lieu thereof the word "for".

Page 18, line 23, insert after the figures "\$1,000" and before the colon the following: "or imprisoned for not more than one year, or both such fine and imprisonment".

Page 24, line 4, insert after the word "official" the following: "agricultural or other".

STATEMENT

The accompanying bill is intended to replace and expand the protection afforded by the present Insecticide Act of 1910. That law was enacted at a time when insecticides and fungicides were comparatively simple, consisting largely of paris green, pyrethrum, bordeaux mixture, and similar materials. Rodenticides and herbicides were not then marketed to any great extent.

Since 1910 great changes have occurred in the field of economic poisons, and the present law is now inadequate. New plant materials and synthetic chemicals developed through research by both private industry and the Government have greatly increased the number of economic poisons and the scope of their usefulness. An important example at the present time is DDT (dichlorodiphenyltrichloroethane), which is revolutionizing many phases of the insecticide industry. Herbicides are becoming increasingly important in the control and eradication of weeds as the result of the recent development of 2-4-dichloro-phenoxy-acetic acid and other synthetic materials.

This bill embraces, in addition to insecticides and fungicides, rodenticides, herbicides, devices and preparations intended to control other forms of pests which are not subject to the present Insecticide Act of 1910. Rodenticides are being marketed in large quantities and many of them are weak and ineffective and have tended to imperil various rodent-control programs. The importance of rodenticides can readily be appreciated when it is realized that the estimated damage by rats alone has amounted to some \$200,000,000 annually.

Other important improvements and changes over the present law which would be provided by this bill are as follows:

(1) A provision requiring the registration of economic poisons prior to their sale or introduction into interstate or foreign commerce.

(2) The inclusion of provisions for protection of the public against poisoning by requiring prominently displayed poison warnings on the labels of highly toxic economic poisons.

(3) A provision requiring the coloring or discoloring of dangerous white powdered economic poisons to prevent their being mistaken for flour, sugar, salt, baking powder or other similar articles commonly used in the preparation of foodstuffs.

(4) A requirement that warning or caution statements be contained on the label of the economic poison to prevent injury to living man, other vertebrate animals, vegetation, and useful invertebrate animals.

(5) A provision requiring instructions for use to provide adequate protection for the public.

(6) A provision declaring economic poisons to be misbranded if they are injurious to man, vertebrate animals, or vegetation, except weeds, when properly used.

(7) A provision requiring information to be furnished with respect to the delivery, movement, or holding of economic poisons and devices.

One of the principal provisions of the bill is the one providing for the registration of economic poisons prior to their being marketed. It is believed that this provision will provide additional protection for the public, assist manufacturers in complying with the provisions of the bill, and at the same time hold administrative costs to a minimum. Under the existing law, the Administrator has no means of ascertaining or knowing what economic poisons are being marketed, except by having a force of inspectors circulating through the country picking up samples here and there, wherever they may be found. Frequently, serious damage is suffered by agricultural producers and other users of economic poisons through the use of misbranded or adulterated economic poisons before the enforcement officials have any knowledge of the existence of such articles, or of their being offered to the public. Under this bill, any economic poison subject to the provisions thereof will be brought to the attention of the enforcement officials who will have an opportunity to become familiar with the formula, label, and claims made with respect to any such economic poison before it is offered to the public. It should be possible, therefore, in a great majority of instances, to prevent false and misleading

claims, and to prevent worthless articles from being marketed, and to provide a means of obtaining speedy remedial action if any such articles are marketed. Thus, a great measure of protection can be accorded directly through the prevention of injury, rather than having to resort solely to the imposition of sanctions for violations after damage or injury has been done. Registration will also afford manufacturers an opportunity to eliminate many objectionable features from their labels prior to placing an economic poison on the market.

The bill in most of its provisions is in accord with and supplements the provisions of the proposed uniform State Insecticide, Fungicide, and Rodenticide Act which has been recommended for adoption by the Council of State Governments. It is believed that the enactment of this bill will greatly facilitate the coordination of work in this field among the States and with the Federal Government. It is highly desirable that laws governing economic poisons be as nearly uniform as possible consistent with the need for the protection of the public, so that manufacturers may have Nation-wide distribution with a minimum of conflict between the labeling requirements of the various laws.

ANALYSIS OF THE BILL

Section 1: The act may be cited as the "Federal Insecticide, Fungicide, and Rodenticide Act."

Section 2: This section contains definitions. Included under the term "economic poison" are preparations intended for use against insects, rodents, fungi, weeds, and other forms of plant or animal life or viruses which the Secretary of Agriculture may declare to be a pest. The term "device" means any instrument or contrivance intended for use against insects, rodents, or fungi, or other pests which may be designated as such by the Secretary but does not include equipment used for the application of economic poisons when sold separately therefrom.

The term "rodenticides" would include not only preparations for the control of animals ordinarily known as rodents, but also those suitable for the control of any vertebrate animal which the Secretary might declare to be a pest.

The term "ingredient statement" includes either a statement of the name and percentage of each active ingredient, together with the total percentage of the inert ingredients, or a statement of the name of each active ingredient, together with the name of each and the total percentage of the inert ingredients, except that when the product contains a material which is highly toxic to man the first alternative must be used.

The term "label" as used in the bill refers not only to the printed matter on the immediate container of the economic poison or device, but also on the outside container or wrapper of the retail package in which it may be packed.

The term "labeling" includes the label, as well as any printed matter accompanying the economic poison at any time. It also includes any written matter to which reference is made on the label, or literature accompanying the economic poison or device, except references to current official publications of the United States Departments of Agriculture and Interior, the United States Public Health Service, State experiment stations, State agricultural colleges, and other similar Federal or State institutions or agencies authorized by law to conduct research in the field of economic poisons.

"Misbranding" as used in this bill includes essentially the same elements as are included under the present Insecticide Act of 1910, but in addition thereto an economic poison is misbranded if it bears any reference to registration under the act, if the label does not contain instructions for use which are necessary and adequate for the protection of the public, or if it does not bear an adequate warning or caution statement. Any reference to registration is required to be omitted from the label, because such reference might be construed as an endorsement of the article by the Department of Agriculture and the bill specifically provides that registration may not be construed as a defense for the commission of any offense prohibited by the act. Under the provisions of the bill an article is misbranded if the label does not bear an ingredient statement on that part of the retail package which is presented or displayed under customary conditions of purchase, but the Secretary is authorized to permit ingredient statements to appear prominently on some other part of the container if he deems it impracticable to have such statement placed on the part of the container which is presented or displayed under customary conditions of purchase.

An economic poison which causes injury to plants is now declared to be misbranded instead of adulterated, and this provision has been broadened to include injuries to living man or other vertebrate animals.

Section 3: The prohibited acts include the marketing of any economic poison which is not registered, or which contains any claim or claims made for it or any directions for its use which differ in substance from the representations made to the Secretary of Agriculture at the time of the product's registration, or if the product's composition differs from the composition represented for it to the Secretary of Agriculture at the time of registration, or the label of which does not bear the name and address of the manufacturer, registrant, or person for whom manufactured, the name, brand, or trade-mark under which the article is sold and the net weight or measure of the content. In addition, labels on certain highly toxic substances must bear the skull and crossbones, the word "poison," and an antidote statement; and certain white powdered economic poisons are required to be colored or discolored to avoid their being mistaken for food products. Provisions similar to those of the present act prohibiting the shipment of adulterated or misbranded economic poisons are continued in effect. Devices must not be misbranded.

Detaching, altering, destroying, or defacing labels in a manner that may defeat the purpose of the act, or the refusal to give certain information relative to interstate shipment of economic poisons, or the giving of false guaranties are prohibited. The disclosure of certain information furnished confidentially by a manufacturer, except to certain authorized persons, is also prohibited.

The committee amendment adding the words "in the original unbroken package" after the phrase "deliver or offer to deliver" on page 8, line 4, in section 3 (a) is intended to eliminate any question as to the constitutionality of that section. As the language read it would prohibit the resale of any economic poison which has been received in interstate commerce unless it is sold in the manufacturer's unbroken immediate container. The effect of the change will be to make unlawful the resale in the original unbroken package of an economic poison received in interstate commerce unless the provisions of the section are complied with, but to exclude from the requirements of such section resales of such economic poisons after repackaging.

Section 4: Registration is required for every economic poison. If the labeling or the article does not appear to comply with the provisions of the act, the person seeking to register the article is to be notified to that effect and given an opportunity to make necessary modifications. This will probably result in immediate correction in the majority of instances. However, if the registrant insists that no modifications are necessary, the article may be registered under protest, in which case the registrant will be subject to additional penalties if found guilty of violating provisions of the Act. In no event, however, is registration intended to give immunity for a violation, since registration is essentially a device to bring to the attention of the Secretary of Agriculture the economic poisons which are being marketed, their composition, and the claims made therefor. It is not intended that registration should relieve a manufacturer from the responsibility of seeing that his product is all that he represents it to be. The Secretary is authorized to cancel the registration of any economic poison at the end of a period of 5 years following the registration thereof, or at the end of any 5-year period thereafter, unless the registrant prior to the expiration of each such 5-year period requests in accordance with regulations issued by the Secretary that the registration be continued in effect. This provision will have the effect of keeping registrations up to date.

Section 5: This section authorizes limited examination of books and records. It is similar to a provision contained in the Federal Food, Drug, and Cosmetic Act.

Section 6: This section authorizes the Secretary of Agriculture to make such rules and regulations as may be necessary for the effective administration and enforcement of the act, including the determination and establishment of suitable names to be used in ingredient statements. In addition thereto, it authorizes the Secretary, after opportunity for hearing, to include as pests any form of plant, animal life or virus which is injurious to plants, man, domestic animals, articles, or substances in addition to those specifically included under the definition of economic poison; to determine the substances which are highly toxic to man when contained in economic poisons; and to determine standards of coloring or discoloring for economic poisons. Other provisions of this section are similar to those contained in the Insecticide Act of 1910.

Section 7: This section makes provision for exemption for any person who establishes a guaranty to the effect that the economic poison complies with the provisions of the act. It also exempts from penalties carriers who comply with provisions of the act, public officials in the performance of their official duties, and shippers of economic poisons for experimental use by or under the supervision

of certain Federal or State agencies, or by others who obtain permits for such shipments.

Section 8: This section provides penalties for violations of the act.

Section 9: The provisions providing for seizures are substantially similar to the provisions of the Insecticide Act of 1910.

Section 10: This section relates to imports and is substantially the same as the provisions contained in the present law.

Section 11: This section authorizes the Secretary of Agriculture to delegate his authority under this bill to any employee of the Department of Agriculture.

Section 12: This section contains an authorization for appropriations and expenditures for the administration and enforcement of the act.

Section 13: This section authorizes the Secretary of Agriculture to cooperate with other Federal governmental agencies, and with official agricultural or other regulatory agencies of States or Territories, or other political subdivisions, in carrying out the provisions of the act, and in securing, as far as possible, uniformity of regulations among all such agencies.

Section 14: This section contains the usual separability clause.

Section 15: This section sets forth the date upon which the various sections become effective. The sections take effect at different times in order to permit the holding of hearings, the preparation of regulations, and such other administrative action as may be necessary. Under certain circumstances, the Secretary is authorized to exempt for a limited period particular economic poisons from the provisions of the act.

Section 16: This section provides for the repeal of the Insecticide Act of 1910, but contains a saving clause for the purpose of sustaining any proper suit, action or other proceeding with respect to violations of that act.

CONCLUSION

In conclusion it should be stated that the record before this committee demonstrates remarkable unanimity of opinion among farm organizations, industrial groups, entomologists, and Government officials, showing the need for legislation of this character. This bill has been considered by representatives of the Agricultural Insecticide and Fungicide Association; the National Association of Insecticide and Disinfectant Manufacturers, Inc.; the American Association of Economic Entomologists; the National Association of Commissioners, Secretaries, and Directors of Agriculture; the American Farm Bureau Federation; the National Grange; the National Council of Farmer Cooperatives; the International Apple Association; the Inter-State Manufacturers Association; the Pacific Insecticide Institute; the Farmers Education and Cooperative Union of America; the Department of Agriculture; the Department of the Interior, and by others. These organizations are strongly in favor of new legislation in this field and in the main are in accord with the bill as written.

In compliance with clause 2a of rule XIII of the House of Representatives, there is set forth below in black brackets the entire text of the Insecticide Act of 1910 (36 Stat. 331, 7 U. S. C. 121-134), which this bill would repeal:

"[Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be unlawfully for any person to manufacture within any Territory or the District of Columbia any insecticide, paris green, lead arsenate, or fungicide which is adulterated or misbranded within the meaning of this act; and any person who shall violate any of the provisions of this section shall be guilty of a misdemeanor, and shall, upon conviction thereof, be fined not to exceed two hundred dollars for the first offense, and upon conviction for each subsequent offense be fined not to exceed three hundred dollars, or sentenced to imprisonment for not to exceed one year, or both such fine and imprisonment, in the discretion of the court.

"[SEC. 2. That the introduction into any State or Territory or the District of Columbia from any other State or Territory or the District of Columbia, or from any foreign country, or shipment to any foreign country, of any insecticide, or paris green, or lead arsenate, or fungicide which is adulterated or misbranded within the meaning of this act is hereby prohibited; and any person who shall ship or deliver for shipment from any State or Territory or the District of Columbia to any other State or Territory or the District of Columbia, or to any foreign country, or who shall receive in any State or Territory or the District of Columbia from any other State or Territory or the District of Columbia, or foreign country, and having so received, shall deliver, in original unbroken packages, for pay or otherwise, or offer to deliver, to any other person, any such article so adulterated

or misbranded within the meaning of this act, or any person who shall sell or offer for sale in the District of Columbia or any Territory of the United States any such adulterated or misbranded insecticide, or paris green, or lead arsenate, or fungicide, or export or offer to export the same to any foreign country, shall be guilty of a misdemeanor, and for such offense be fined not exceeding two hundred dollars for the first offense, and upon conviction for each subsequent offense not exceeding three hundred dollars, or be imprisoned not exceeding one year, or both, in the discretion of the court: *Provided*, That no article shall be deemed misbranded or adulterated within the provisions of this act when intended for export to any foreign country and prepared or packed according to the specifications or directions of the foreign purchaser; but if said article shall be in fact sold or offered for sale for domestic use or consumption, then this proviso shall not exempt said article from the operation of any of the other provisions of this act.

“**SEC. 3.** That the Secretary of the Treasury, the Secretary of Agriculture, and the Secretary of Commerce and Labor shall make uniform rules and regulations for carrying out the provisions of this act, including the collection and examination of specimens of insecticides, paris greens, lead arsenates, and fungicides manufactured or offered for sale in the District of Columbia or in any Territory of the United States, or which shall be offered for sale in unbroken packages in any State other than that in which they shall have been respectively manufactured or produced, or which shall be received from any foreign country or intended for shipment to any foreign country, or which may be submitted for examination by the director of the experiment station of any State, Territory, or the District of Columbia (acting under the direction of the Secretary of Agriculture), or at any domestic or foreign port through which such product is offered for interstate commerce, or for export or import between the United States and any foreign port or country.

“**SEC. 4.** That the examination of specimens of insecticides, paris greens, lead arsenates, and fungicides shall be made in the Department of Agriculture, by such existing bureau or bureaus as may be directed by the Secretary, for the purpose of determining from such examination whether such articles are adulterated or misbranded within the meaning of this act; and if it shall appear from any such examination that any of such specimens are adulterated or misbranded within the meaning of this act, the Secretary of Agriculture shall cause notice thereof to be given to the party from whom such sample was obtained. Any party so notified shall be given an opportunity to be heard, under such rules and regulations as may be prescribed as aforesaid, and if it appears that any of the provisions of this act have been violated by such party, then the Secretary of Agriculture shall at once certify the facts to the proper United States district attorney, with a copy of the results of the analysis or the examination of such article duly authenticated by the analyst or officer making such examination under the oath of such officer. After judgment of the court, notice shall be given by publication in such manner as may be prescribed by the rules and regulations aforesaid.

“**SEC. 5.** That it shall be the duty of each district attorney to whom the Secretary of Agriculture shall report any violation of this act, or to whom any director of experiment station or agent of any State, Territory, or the District of Columbia, under authority of the Secretary of Agriculture, shall present satisfactory evidences of any such violation, to cause appropriate proceedings to be commenced and prosecuted in the proper courts of the United States, without delay, for the enforcement of the penalties as in such case herein provided.

“**SEC. 6.** That the term ‘insecticide’ as used in this act shall include any substance or mixture of substances intended to be used for preventing, destroying, repelling, or mitigating any insects which may infest vegetation, man or other animals, or households, or be present in any environment whatsoever. The term ‘paris green’ as used in this act shall include the product sold in commerce as paris green and chemically known as the aceto-arsenite of copper. The term ‘lead arsenate’ as used in this act shall include the product or products sold in commerce as ‘lead arsenate’ and consisting chemically of products derived from arsenic acid (H_3AsO_4) by replacing one or more hydrogen atoms by lead. That the term ‘fungicide’ as used in this act shall include any substance or mixture of substances intended to be used for preventing, destroying, repelling, or mitigating any and all fungi that may infest vegetation or be present in any environment whatsoever.

“**SEC. 7.** That for the purpose of this act an article shall be deemed to be adulterated—

“**In the case of paris green:** First, if it does not contain at least fifty per centum of arsenious oxide; second, if it contains arsenic in water-soluble forms equivalent

to more than three and one-half per centum of arsenious oxide; third, if any substance has been mixed and packed with it so as to reduce or lower or injuriously affect its quality or strength.

“In the case of lead arsenate: First, if it contains more than fifty per centum of water; second, if it contains total arsenic equivalent to less than twelve and one-half per centum of arsenic oxide (As_2O_5); third, if it contains arsenic in water-soluble forms equivalent to more than seventy-five one-hundredths per centum of arsenic oxide (As_2O_5); fourth, if any substances have been mixed and packed with it so as to reduce, lower, or injuriously affect its quality or strength; *Provided, however*, That extra water may be added to lead arsenate (as described in this paragraph) if the resulting mixture is labeled lead arsenate and water, the percentage of extra water being plainly and correctly stated on the label.

“In the case of insecticides or fungicides, other than paris green and lead arsenate: First, if its strength or purity fall below the professed standard or quality under which it is sold; second, if any substance has been substituted wholly or in part for the article; third, if any valuable constituent of the article has been wholly or in part abstracted; fourth, if it is intended for use on vegetation and shall contain any substance or substances which, although preventing, destroying, repelling, or mitigating insects, shall be injurious to such vegetation when used.

“Sec. 8. That the term ‘misbranded’ as used herein shall apply to all insecticides, paris greens, lead arsenates, or fungicides, or articles which enter into the composition of insecticides or fungicides, the package or label of which shall bear any statement, design, or device regarding such article or the ingredients or substances contained therein which shall be false or misleading in any particular, and to all insecticides, paris greens, lead arsenates, or fungicides which are falsely branded as to the State, Territory, or country in which they are manufactured or produced.

“That for the purpose of this act an article shall be deemed to be misbranded—

“In the case of insecticides, paris greens, lead arsenates, and fungicides: First, if it be an imitation or offered for sale under the name of another article; second, if it be labeled or branded so as to deceive or mislead the purchaser, or if the contents of the package as originally put up shall have been removed in whole or in part and other contents shall have been placed in such package; third, if in package form, and the contents are stated in terms of weight or measure, they are not plainly and correctly stated on the outside of the package.

“In the case of insecticides (other than paris greens and lead arsenates) and fungicides: First, if it contains arsenic in any of its combinations or in the elemental form and the total amount of arsenic present (expressed as per centum of metallic arsenic) is not stated on the label; second, if it contains arsenic in any of its combinations or in the elemental form and the amount of arsenic in water-soluble forms (expressed as per centum of metallic arsenic) is not stated on the label; third, if it consists partially or completely of an inert substance or substances which do not prevent, destroy, repel, or mitigate insects or fungi and does not have the names and percentage amounts of each and every one of such inert ingredients plainly and correctly stated on the label: *Provided, however*, That in lieu of naming and stating the percentage amount of each and every inert ingredient the producer may at his discretion state plainly upon the label the correct names and percentage amounts of each and every ingredient of the insecticide or fungicide having insecticidal or fungicidal properties, and make no mention of the inert ingredients except insofar as to state the total percentage of inert ingredients present.

“Sec. 9. That no dealer shall be prosecuted under the provisions of this act when he can establish a guaranty signed by the wholesaler, jobber, manufacturer, or other party residing in the United States, from whom he purchased such articles, to the effect that the same is not adulterated or misbranded within the meaning of this act, designating it. Said guaranty, to afford protection, shall contain the name and address of the party or parties making the sale of such articles to such dealer, and in such case said party or parties shall be amenable to the prosecutions, fines, and other penalties which would attach in due course to the dealer under the provisions of this act.

“Sec. 10. That any insecticide, paris green, lead arsenate, or fungicide that is adulterated or misbranded within the meaning of this act and is being transported from one State, Territory, or District, to another for sale, or, having been transported, remains unloaded, unsold, or in original unbroken packages, or if it be sold or offered for sale in the District of Columbia or any Territory of the United States, or if it be imported from a foreign country for sale, shall be

liable to be proceeded against in any district court of the United States within the district wherein the same is found and seized for confiscation by a process of libel for condemnation.

“[And if such article is condemned as being adulterated or misbranded, within the meaning of this act, the same shall be disposed of by destruction or sale as the said court may direct, and the proceeds thereof, if sold, less the legal costs and charges, shall be paid into the Treasury of the United States, but such goods shall not be sold in any jurisdiction contrary to the provisions of this act or the laws of that jurisdiction: *Provided, however,* That upon the payment of the costs of such libel proceedings and the execution and delivery of a good and sufficient bond to the effect that such articles shall not be sold or otherwise disposed of contrary to the provisions of this act or the laws of any State, Territory, or District, the court may by order direct that such articles be delivered to the owner thereof. The proceedings of such libel cases shall conform, as near as may be, to the proceedings in admiralty, except that either party may demand trial by jury of any issue of fact joined in any such case, and all such proceedings shall be at the suit of and in the name of the United States.]

“[SEC. 11. That the Secretary of the Treasury shall deliver to the Secretary of Agriculture, upon his request, from time to time, samples of insecticides, paris greens, lead arsenates, and fungicides which are being imported into the United States or offered for import, giving notice thereof to the owner or consignee who may appear before the Secretary of Agriculture and have the right to introduce testimony; and if it appear from the examination of such samples that any insecticide, or paris green, or lead arsenate, or fungicide offered to be imported into the United States is adulterated or misbranded within the meaning of this act or is otherwise dangerous to the health of the people of the United States, or is of a kind forbidden entry into or forbidden to be sold or restricted in sale in the country in which it is made or from which it is exported, or is otherwise falsely labeled in any respect, the said article shall be refused admission, and the Secretary of the Treasury shall refuse delivery to the consignee and shall cause the destruction of any goods refused delivery which shall not be exported by the consignee within three months from the date of notice of such refusal under such regulations as the Secretary of the Treasury may prescribe: *Provided,* That the Secretary of the Treasury may deliver to the consignee such goods pending examination and decision in the matter on execution of a penal bond for the amount of the full invoice value of such goods, together with the duty thereon, and on refusal to return such goods for any cause to the custody of the Secretary of the Treasury, when demanded, for the purpose of excluding them from the country or for any other purpose, said consignee shall forfeit the full amount of the bonds: *And provided further,* That all charges for storage, cartage, and labor on goods which are refused admission or delivery shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against any future importation made by such owner or consignee.]

“[SEC. 12. That the term “Territory,” as used in this act, shall include the District of Alaska and the insular possessions of the United States. The word “person,” as used in this act, shall be construed to import both the plural and the singular, as the case demands, and shall include corporations, companies, societies, and associations. When construing and enforcing the provisions of this act, the act, omission, or failure of any officer, agent, or other person acting for or employed by any corporation, company, society, or association, within the scope of his employment or office, shall in every case be also deemed to be the act, omission, or failure of such corporation, company, society, or association, as well as that of the other person.]

“[SEC. 13. That this act shall be known and referred to as ‘The Insecticide Act of 1910.’]

“[SEC. 14. That this act shall be in force and effect from and after the first day of January, nineteen hundred and eleven.]”

80TH CONGRESS
1ST SESSION

[Report No. 199]

Reported by Mr. CAPPER, without amendment

8 a. The term “economic poison” means any substance
9 or mixture of substances intended for preventing, destroying,
10 repelling, or mitigating any insects, rodents, fungi, weeds,
11 and other forms of plant or animal life or viruses, except

1 viruses on or in living man or other animals, which the
2 Secretary shall declare to be a pest.

3 b. The term "device" means any instrument or con-
4 trivance intended for trapping, destroying, repelling, or
5 mitigating insects or rodents or destroying, repelling, or
6 mitigating fungi or such other pests as may be designated
7 by the Secretary, but not including equipment used for
8 the application of economic poisons when sold separately
9 therefrom.

10 c. The term "insecticide" means any substance or
11 mixture of substances intended for preventing, destroying,
12 repelling, or mitigating any insects which may be present
13 in any environment whatsoever.

14 d. The term "fungicide" means any substance or mix-
15 ture of substances intended for preventing, destroying, re-
16 pelling, or mitigating any fungi.

17 e. The term "rodenticide" means any substance or
18 mixture of substances intended for preventing, destroying,
19 repelling, or mitigating rodents or any other vertebrate ani-
20 mal which the Secretary shall declare to be a pest.

21 f. The term "herbicide" means any substance or mixture
22 of substances intended for preventing, destroying, repelling,
23 or mitigating any weed.

24 g. The term "weed" means any plant which grows
25 where not wanted.

1 h. The term “insect” means any of the numerous small
 2 invertebrate animals generally having the body more or
 3 less obviously segmented, for the most part belonging to
 4 the class insecta, comprising six-legged, usually winged
 5 forms, as, for example, beetles, bugs, bees, flies, and to
 6 other allied classes of arthropods whose members are wing-
 7 less and usually have more than six legs, as, for example,
 8 spiders, mites, ticks, centipedes, and wood lice.

9 i. The term “fungi” means all non-chlorophyll-bearing
 10 thallophytes (that is, all non-chlorophyll-bearing plants of
 11 a lower order than mosses and liverworts) as, for example,
 12 rusts, smuts, mildews, molds, yeasts, and bacteria, except
 13 those on or in living man or other animals.

14 j. The term “ingredient statement” means either—

15 (1) a statement of the name and percentage of
 16 each active ingredient, together with the total percent-
 17 age of the inert ingredients, in the economic poison; or

18 (2) a statement of the name of each active in-
 19 gredient, together with the name of each and total per-
 20 centage of the inert ingredients, if any there be, in the
 21 economic poison (except option 1 shall apply if the
 22 preparation is highly toxic to man, determined as pro-
 23 vided in section 6 of this Act) ;

24 and, in addition to (1) or (2) in case the economic poison
 25 contains arsenic in any form, a statement of the percentages

1 of total and water soluble arsenic, each calculated as
2 elemental arsenic.

3 k. The term "active ingredient" means an ingredient
4 which will prevent, destroy, repel, or mitigate insects, fungi,
5 rodents, weeds or other pests.

6 l. The term "inert ingredient" means an ingredient
7 which is not active.

8 m. The term "antidote" means a practical immediate
9 treatment in case of poisoning and includes first-aid
10 treatment.

11 n. The term "person" means any individual, partner-
12 ship, association, corporation, or any organized group of
13 persons whether incorporated or not.

14 o. The term "Territory" means any Territory or pos-
15 session of the United States, excluding the Canal Zone.

16 p. The term "Secretary" means the Secretary of
17 Agriculture.

18 q. The term "registrant" means the person registering
19 any economic poison pursuant to the provisions of this Act.

20 r. The term "label" means the written, printed, or
21 graphic matter on, or attached to, the economic poison or
22 device or the immediate container thereof, and the outside
23 container or wrapper of the retail package, if any there be,
24 of the economic poison or device.

1 s. The term “labeling” means all labels and other
2 written, printed, or graphic matter—

3 (1) upon the economic poison or device or any of
4 its containers or wrappers;

5 (2) accompanying the economic poison or device
6 at any time;

7 (3) to which reference is made on the label or in
8 literature accompanying the economic poison or device,
9 except to current official publications of the United States
10 Departments of Agriculture and Interior, the United
11 States Public Health Service, State experiment stations,
12 State agricultural colleges, and other similar Federal or
13 State institutions or agencies authorized by law to
14 conduct research in the field of economic poisons;

15 t. The term “adulterated” shall apply to any economic
16 poison if its strength or purity falls below the professed
17 standard or quality as expressed on its labeling or under
18 which it is sold, or if any substance has been substituted
19 wholly or in part for the article, or if any valuable con-
20 stituent of the article has been wholly or in part abstracted.

21 u. The term “misbranded” shall apply—

22 (1) to any economic poison or device if its label-
23 ing bears any statement, design, or graphic representa-
24 tion relative thereto or to its ingredients which is false
25 or misleading in any particular;

1 (2) to any economic poison—

2 (a) if it is an imitation of or is offered for
3 sale under the name of another economic poison;

4 (b) if its labeling bears any reference to reg-
5 istration under this Act;

6 (c) if the labeling accompanying it does not
7 contain directions for use which are necessary and
8 if complied with adequate for the protection of the
9 public;

10 (d) if the label does not contain a warning
11 or caution statement which may be necessary and
12 if complied with adequate to prevent injury to living
13 man and other vertebrate animals, vegetation, and
14 useful invertebrate animals;

15 (e) if the label does not bear an ingredient
16 statement on that part of the immediate container
17 and on the outside container or wrapper, if there
18 be one, through which the ingredient statement on
19 the immediate container cannot be clearly read,
20 of the retail package which is presented or displayed
21 under customary conditions of purchase: *Provided,*
22 That the Secretary may permit the ingredient state-
23 ment to appear prominently on some other part of
24 the container, if the size or form of the container
25 makes it impracticable to place it on the part of the

1 retail package which is presented or displayed under
2 customary conditions of purchase.

3 (f) if any word, statement, or other informa-
4 tion required by or under authority of this Act
5 to appear on the label or labeling is not prominently
6 placed thereon with such conspicuousness (as com-
7 pared with other words, statements, designs, or
8 graphic matter in the labeling) and in such terms
9 as to render it likely to be read and understood by
10 the ordinary individual under customary conditions
11 of purchase and use; or

12 (g) if in the case of an insecticide, fungicide,
13 or herbicide when used as directed or in accordance
14 with commonly recognized practice it shall be in-
15 jurious to living man or other vertebrate animals,
16 or vegetation, except weeds, to which it is applied,
17 or to the person applying such economic poison.

18 PROHIBITED ACTS

19 SEC. 3. (a) It shall be unlawful for any person to
20 distribute, sell, or offer for sale in any Territory or in the
21 District of Columbia, or to ship or deliver for shipment from
22 any State, Territory, or the District of Columbia to any other
23 State, Territory, or the District of Columbia, or to any for-
24 eign country, or to receive in any State, Territory, or the
25 District of Columbia from any other State, Territory, or the

1 District of Columbia, or foreign country, and having so
2 received, deliver or offer to deliver in the original unbroken
3 package to any other person, any of the following:

4 (1) Any economic poison which has not been registered
5 pursuant to the provisions of section 4 of this Act, or
6 any economic poison if any of the claims made for it or
7 any of the directions for its use differ in substance from
8 the representations made in connection with its registra-
9 tion, or if the composition of an economic poison differs
10 from its composition as represented in connection with its
11 registration: *Provided*, That in the discretion of the Secre-
12 tary, a change in the labeling or formula of an economic
13 poison may be made within a registration period without
14 requiring reregistration of the product.

15 (2) Any economic poison unless it is in the registrant's
16 or the manufacturer's unbroken immediate container, and
17 there is affixed to such container, and to the outside con-
18 tainer or wrapper of the retail package, if there be one
19 through which the required information on the immediate
20 container cannot be clearly read, a label bearing—

21 (a) the name and address of the manufacturer,
22 registrant, or person for whom manufactured;

23 (b) the name, brand, or trade-mark under which
24 said article is sold; and

25 (c) the net weight or measure of the content:

1 *Provided*, That the Secretary may permit reasonable
2 variations.

3 (3) Any economic poison which contains any sub-
4 stance or substances in quantities highly toxic to man,
5 determined as provided in section 6 of this Act, unless the
6 label shall bear, in addition to any other matter required
7 by this Act—

8 (a) the skull and crossbones;

9 (b) the word “poison” prominently (IN RED)
10 on a background of distinctly contrasting color; and

11 (c) a statement of an antidote for the economic
12 poison.

13 (4) The economic poisons commonly known as stand-
14 ard lead arsenate, basic lead arsenate, calcium arsenate, mag-
15 nesium arsenate, zinc arsenate, zinc arsenite, sodium fluoride,
16 sodium fluosilicate, and barium fluosilicate unless they have
17 been distinctly colored or discolored as provided by regula-
18 tions issued in accordance with this Act, or any other white
19 powder economic poison which the Secretary, after investiga-
20 tion of and after public hearing on the necessity for such
21 action for the protection of the public health and the feasi-
22 bility of such coloration or discoloration, shall, by regulation,
23 require to be distinctly colored or discolored, unless it has
24 been so colored or discolored: *Provided*, That the Secretary

1 may exempt any economic poison to the extent that it is
2 intended for a particular use or uses from the coloring or dis-
3 coloring required or authorized by this section if he deter-
4 mines that such coloring or discoloring for such use or uses
5 is not necessary for the protection of the public health.

6 (5) Any economic poison which is adulterated or
7 misbranded or any device which is misbranded.

8 b. Notwithstanding any other provision of this Act, no
9 article shall be deemed in violation of this Act when intended
10 solely for export to any foreign country and prepared or
11 packed according to the specifications or directions of the
12 foreign purchaser.

13 c. It shall be unlawful—

14 (1) for any person to detach, alter, deface, or
15 destroy, in whole or in part, any label or labeling pro-
16 vided for in this Act or the rules and regulations promul-
17 gated hereunder, or to add any substance to, or take
18 any substance from, an economic poison in a manner
19 that may defeat the purpose of this Act;

20 (2) for any manufacturer, distributor, dealer, car-
21 rier, or other person to refuse, upon a request in writ-
22 ing specifying the nature or kind of economic poison
23 or device to which such request relates, to furnish to or
24 permit any person designated by the Secretary to have

1 access to and to copy such records as authorized by
2 section 5 of this Act;

3 (3) for any person to give a guaranty or under-
4 taking provided for in section 7 which is false in any
5 particular, except that a person who receives and relies
6 upon a guaranty authorized under section 7 may give
7 a guaranty to the same effect, which guaranty shall
8 contain in addition to his own name and address the
9 name and address of the person residing in the United
10 States from whom he received the guaranty or under-
11 taking; and

12 (4) for any person to use for his own advantage
13 or to reveal, other than to the Secretary, or officials
14 or employees of the United States Department of Agri-
15 culture, or other Federal agencies, or to the courts in
16 response to a subpoena, or to physicians, and in
17 emergencies to pharmacists and other qualified persons,
18 for use in the preparation of antidotes, in accordance
19 with such directions as the Secretary may prescribe,
20 any information relative to formulas of products ac-
21 quired by authority of section 4 of this Act.

22 REGISTRATION

23 SEC. 4. a. Every economic poison which is distributed,
24 sold, or offered for sale in any Territory or the District of

1 Columbia, or which is shipped or delivered for shipment
2 from any State, Territory, or the District of Columbia to
3 any other State, Territory, or the District of Columbia, or
4 which is received from any foreign country shall be reg-
5 istered with the Secretary: *Provided*, That products which
6 have the same formula, are manufactured by the same per-
7 son, the labeling of which contains the same claims, and
8 the labels of which bear a designation identifying the product
9 as the same economic poison may be registered as a single
10 economic poison; and additional names and labels shall be
11 added by supplement statements; the registrant shall file
12 with the Secretary a statement including—

13 (1) the name and address of the registrant and
14 the name and address of the person whose name will
15 appear on the label, if other than the registrant;

16 (2) the name of the economic poison;

17 (3) a complete copy of the labeling accompanying
18 the economic poison and a statement of all claims to
19 be made for it, including the directions for use; and

20 (4) if requested by the Secretary, a full descrip-
21 tion of the tests made and the results thereof upon
22 which the claims are based.

23 b. The Secretary, whenever he deems it necessary for
24 the effective administration of this Act, may require the
25 submission of the complete formula of the economic poison.

1 If it appears to the Secretary that the composition of the
2 article is such as to warrant the proposed claims for it and
3 if the article and its labeling and other material required
4 to be submitted comply with the requirements of section 3
5 of this Act, he shall register it.

6 c. If it does not appear to the Secretary that the article
7 is such as to warrant the proposed claims for it or if the
8 article and its labeling and other material required to be
9 submitted do not comply with the provisions of this Act, he
10 shall notify the registrant of the manner in which the article,
11 labeling, or other material required to be submitted fail to
12 comply with the Act so as to afford the registrant an oppor-
13 tunity to make the corrections necessary. If, upon receipt
14 of such notice, the registrant insists that such corrections are
15 not necessary and requests in writing that it be registered,
16 the Secretary shall register the article, under protest, and
17 such registration shall be accompanied by a warning, in writ-
18 ing, to the registrant of the apparent failure of the article to
19 comply with the provisions of this Act. In order to protect
20 the public, the Secretary, on his own motion, may at any
21 time, cancel the registration of an economic poison and in
22 lieu thereof issue a registration under protest in accordance
23 with the foregoing procedure. In no event shall registration
24 of an article, whether or not protested, be construed as a

1 defense for the commission of any offense prohibited under
2 section 3 of this Act.

3 d. Notwithstanding any other provision of this Act,
4 registration is not required in the case of an economic poison
5 shipped from one plant to another plant operated by the
6 same person and used solely at such plant as a constituent
7 part to make an economic poison which is registered under
8 this Act.

9 e. The Secretary is authorized to cancel the registration
10 of any economic poison at the end of a period of five years
11 following the registration of such economic poison or at the
12 end of any five-year period thereafter, unless the registrant,
13 prior to the expiration of each such five-year period, requests
14 in accordance with regulations issued by the Secretary that
15 such registration be continued in effect.

16 BOOKS AND RECORDS

17 SEC. 5. For the purposes of enforcing the provisions
18 of this Act, any manufacturer, distributor, carrier, dealer,
19 or any other person who sells or offers for sale, delivers or
20 offers for delivery, or who receives or holds any economic
21 poison or device subject to this Act, shall, upon request of
22 any employee of the United States Department of Agriculture
23 or any employee of any State, Territory, or political
24 subdivision, duly designated by the Secretary, furnish or
25 permit such person at all reasonable times to have access

1 to, and to copy all records showing the delivery, movement,
2 or holding of such economic poison or device, including the
3 quantity, the date of shipment and receipt, and the name
4 of the consignor and consignee; and in the event of the
5 inability of any person to produce records containing such
6 information, all other records and information relating to
7 such delivery, movement, or holding of the economic poison
8 or device. Notwithstanding this provision, however, the
9 specific evidence obtained under this section shall not be
10 used in a criminal prosecution of the person from whom
11 obtained.

12 ENFORCEMENT

13 SEC. 6. a. The Secretary (except as otherwise pro-
14 vided in this section) is authorized to make rules and regu-
15 lations for carrying out the provisions of this Act, including
16 the collection and examination of samples of economic
17 poisons and devices subject to this Act and the determination
18 and establishment of suitable names to be used in the in-
19 gredient statement. The Secretary is, in addition, authorized
20 after opportunity for hearing—

21 (1) to declare a pest any form of plant or animal
22 life or virus which is injurious to plants, man, domestic
23 animals, articles, or substances;

24 (2) to determine economic poisons, and quantities

1 of substances contained in economic poisons, which are
2 highly toxic to man; and

3 (3) to determine standards of coloring or discolor-
4 ing for economic poisons, and to subject economic
5 poisons to the requirements of section 3a (4) of this
6 Act.

7 b. The Secretary of the Treasury and the Secretary of
8 Agriculture shall jointly prescribe regulations for the enforce-
9 ment of section 10 of this Act.

10 c. The examination of economic poisons or devices shall
11 be made in the United States Department of Agriculture
12 or elsewhere as the Secretary may designate for the purpose
13 of determining from such examination whether they comply
14 with the requirements of this Act, and if it shall appear
15 from any such examination that they fail to comply with the
16 requirements of this Act, the Secretary shall cause notice
17 to be given to the person against whom criminal proceedings
18 are contemplated. Any person so notified shall be given an
19 opportunity to present his views, either orally or in writing,
20 with regard to such contemplated proceedings, and if in the
21 opinion of the Secretary it appears that the provisions of
22 this Act have been violated by such person, then the
23 Secretary shall certify the facts to the proper United States
24 attorney, with a copy of the results of the analysis or the
25 examination of such article: *Provided*, That nothing in this

1 Act shall be construed as requiring the Secretary to report
2 for prosecution or for the institution of libel proceedings
3 minor violations of this Act whenever he believes that the
4 public interest will be adequately served by a suitable written
5 notice of warning.

6 d. It shall be the duty of each United States attorney,
7 to whom the Secretary or his agents shall report any viola-
8 tion of this Act, to cause appropriate proceedings to be
9 commenced and prosecuted in the proper courts of the United
10 States without delay.

11 e. The Secretary shall, by publication in such manner
12 as he may prescribe, give notice of all judgments entered
13 in actions instituted under the authority of this Act.

14 EXEMPTIONS

15 SEC. 7. a. The penalties provided for a violation of
16 section 3a of this Act shall not apply to—

17 (1) any person who establishes a guaranty signed
18 by, and containing the name and address of, the regis-
19 trant or person residing in the United States from whom
20 he purchased and received in good faith the article in
21 the same unbroken package, to the effect that the article
22 was lawfully registered at the time of sale and delivery
23 to him, and that it complies with the other requirements
24 of this Act, designating this Act. In such case the
25 guarantor shall be subject to the penalties which would

1 otherwise attach to the person holding the guaranty
2 under the provisions of this Act;

3 (2) any carrier while lawfully engaged in trans-
4 porting an economic poison or device if such carrier upon
5 request by a person duly designated by the Secretary
6 shall permit such person to copy all records showing the
7 transactions in and movement of the articles;

8 (3) to public officials while engaged in the per-
9 formance of their official duties;

10 (4) to the manufacturer or shipper of an economic
11 poison for experimental use only by or under the super-
12 vision of any Federal or State agency authorized by law
13 to conduct research in the field of economic poisons; or
14 by others if a permit has been obtained before shipment
15 in accordance with regulations promulgated by the
16 Secretary.

17 **PENALTIES**

18 SEC. 8. a. Any person violating section 3a (1) of
19 this Act shall be guilty of a misdemeanor and shall on con-
20 viction be fined not more than \$1,000.

21 b. Any person violating any provision other than sec-
22 tion 3a (1) of this Act shall be guilty of a misdemeanor and
23 shall upon conviction be fined not more than \$500 for the
24 first offense, and on conviction for each subsequent offense
25 be fined not more than \$1,000 or imprisoned for not more

1 than one year, or both such fine and imprisonment: *Provided*,
2 That an offense committed more than five years after the last
3 previous conviction shall be considered a first offense: *And*
4 *provided further*, That in any case where a registrant was
5 issued a warning by the Secretary pursuant to the provisions
6 of section 4 c of this Act, he shall in each instance upon con-
7 viction for an offense concerning which he had been so
8 warned, be fined not more than \$1,000 or imprisoned for
9 not more than one year, or both such fine and imprisonment;
10 and the registration of the article with reference to which the
11 violation occurred shall terminate automatically. An article
12 the registration of which has been terminated may not again
13 be registered unless the article, its labeling, and other material
14 required to be submitted appear to the Secretary to comply
15 with all the requirements of this Act.

16 c. Notwithstanding any other provision of this section,
17 in case any person, with intent to defraud, uses or reveals
18 information relative to formulas of products acquired under
19 the authority of section 4 of this Act, he shall be fined not
20 more than \$10,000 or imprisoned for not more than three
21 years, or both such fine and imprisonment.

22 d. When construing and enforcing the provisions of
23 this Act, the act, omission, or failure, of any officer, agent,
24 or other person acting for or employed by any person
25 shall in every case be also deemed to be the act, omission,

1 or failure of such person as well as that of the person
2 employed.

3 SEIZURES

4 SEC. 9. a. Any economic poison or device that is being
5 transported from one State, Territory, or District to another,
6 or, having been transported, remains unsold or in original
7 unbroken packages, or that is sold or offered for sale in
8 the District of Columbia or any Territory, or that is
9 imported from a foreign country, shall be liable to be pro-
10 ceeded against in any district court of the United States
11 in the district where it is found and seized for confiscation
12 by a process of libel for condemnation—

13 (1) in the case of an economic poison—

14 (a) if it is adulterated or misbranded;

15 (b) if it has not been registered pursuant to
16 the provisions of section 4 of this Act;

17 (c) if it fails to bear on its label the informa-
18 tion required by this Act; or

19 (d) if it is a white powder economic poison
20 and is not colored as required under this Act; or

21 (2) in the case of a device if it is misbranded.

22 b. If the article is condemned it shall, after entry of
23 the decree, be disposed of by destruction or sale as the court
24 may direct and the proceeds, if sold, less the legal costs,
25 shall be paid into the Treasury of the United States, but

1 the article shall not be sold contrary to the provisions of
2 this Act or of the laws of the jurisdiction in which it is
3 sold: *Provided*, That upon the payment of the costs of the
4 libel proceedings and the execution and delivery of a good
5 and sufficient bond conditioned that the article shall not be
6 sold or otherwise disposed of contrary to the provisions of
7 this Act or the laws of any State, Territory, or District in
8 which sold, the court may direct that such articles be de-
9 livered to the owner thereof. The proceedings of such libel
10 cases shall conform, as near as may be, to the proceedings
11 in admiralty, except that either party may demand trial by
12 jury of any issue of fact joined in any case, and all such
13 proceedings shall be at the suit of and in the name of the
14 United States.

15 c. When a decree of condemnation is entered against
16 the article, court costs and fees, storage, and other proper
17 expenses shall be awarded against the person, if any, inter-
18 vening as claimant of the article.

19 IMPORTS

20 SEC. 10. The Secretary of the Treasury shall notify the
21 Secretary of Agriculture of the arrival of economic poisons
22 and devices offered for importation and shall deliver to the
23 Secretary of Agriculture, upon his request, samples of eco-
24 nomic poisons or devices which are being imported or offered
25 for import into the United States, giving notice to the

1 owner or consignee, who may appear before the Secretary
2 of Agriculture and have the right to introduce testimony.
3 If it appears from the examination of a sample that it is
4 adulterated or misbranded or otherwise violates the pro-
5 hibitions set forth in this Act, or is otherwise dangerous to
6 the health of the people of the United States, or is of a
7 kind forbidden entry into or forbidden to be sold or restricted
8 in sale in the country in which it is made or from which
9 it is exported, the said article may be refused admission,
10 and the Secretary of the Treasury shall refuse delivery to
11 the consignee and shall cause the destruction of any goods
12 refused delivery which shall not be exported by the con-
13 signee within three months from the date of notice of such
14 refusal under such regulations as the Secretary of the Treas-
15 ury may prescribe: *Provided*, That the Secretary of the
16 Treasury may deliver to the consignee such goods pending
17 examination and decision in the matter on execution of a
18 penal bond for the amount of the full invoice value of such
19 goods, together with the duty thereon, and on refusal to
20 return such goods for any cause to the custody of the Secre-
21 tary of the Treasury, when demanded, for the purpose of
22 excluding them from the country, or for any other purpose,
23 said consignee shall forfeit the full amount of the bond:
24 *And provided further*, That all charges for storage, cartage,
25 and labor on goods which are refused admission or delivery

1 shall be paid by the owner or consignee, and in default of
2 such payment shall constitute a lien against any future
3 importation made by such owner or consignee.

4 DELEGATION OF DUTIES

5 SEC. 11. All authority vested in the Secretary by virtue
6 of the provisions of this Act may with like force and effect
7 be executed by such employees of the United States Depart-
8 ment of Agriculture as the Secretary may designate for the
9 purpose.

10 AUTHORIZATION FOR APPROPRIATIONS AND EXPENDITURES

11 SEC. 12. a. There is hereby authorized to be appropri-
12 ated, out of any moneys in the Treasury not otherwise appro-
13 priated, such sums as may be necessary for the purposes
14 and administration of this Act. In order to carry out the
15 provisions of this Act, which take effect prior to the repeal
16 of the Insecticide Act of 1910, appropriations available for
17 the enforcement of such Act are authorized to be made
18 available.

19 b. The Secretary is authorized from the funds appro-
20 priated for this Act to make such expenditures as he deems
21 necessary, including rents, travel, supplies, books, samples,
22 testing devices, furniture, equipment, and such other expenses
23 as may be necessary to the administration of this Act.

24 COOPERATION

25 SEC. 13. The Secretary is authorized to cooperate with

1 any other department or agency of the Federal Government
2 and with the official agricultural or other regulatory agency
3 of any State, or any State, Territory, District, possession, or
4 any political subdivision thereof, in carrying out the pro-
5 visions of this Act, and in securing uniformity of regulations.

6 SEPARABILITY

7 SEC. 14. If any provision of this Act is declared un-
8 constitutional, or the applicability thereof to any person or
9 circumstance is held invalid, the constitutionality of the
10 remainder of this Act and the applicability thereof to other
11 persons and circumstances shall not be affected thereby.

12 EFFECTIVE DATE

13 SEC. 15. All provisions of this Act, except section 3,
14 "Prohibited Acts"; section 8, "Penalties"; section 9, "Sei-
15 zures"; and section 10, "Imports", shall take effect upon
16 enactment, and sections 3, 8, 9, and 10 of this Act shall
17 take effect as follows: (1) As to devices, upon enactment;
18 (2) as to rodenticides and herbicides, six months after
19 enactment; and (3) as to insecticides, fungicides, and all
20 other economic poisons, one year after enactment: *Provided,*
21 That the Secretary, upon application, may at any time within
22 one year after sections 3, 8, 9, and 10 of this Act become
23 applicable to devices, rodenticides and herbicides, and insecti-
24 cides, fungicides, and other economic poisons, respectively,

1 if he determines that such action will not be unduly detri-
2 mental to the public interest, and is necessary to avoid
3 hardship, exempt, under such terms and conditions as he
4 may prescribe, any economic poison from the provisions of
5 this Act if such economic poison was labeled, shipped, and
6 delivered by the manufacturer thereof prior to the time the
7 sections of this Act referred to above become applicable to
8 such economic poison and in case the economic poison is an
9 insecticide or fungicide if its sale, delivery, or shipment has
10 not been and will not be in violation of the provisions of the
11 Insecticide Act of 1910.

12 REPEALS

13 SEC. 16. The Insecticide Act of 1910, approved April
14 26, 1910 (36 Stat. 331, 7 U. S. C. 121-134), is hereby
15 repealed one year after the date of the enactment of this
16 Act: *Provided*, That, with respect to violations, liabilities
17 incurred, or appeals taken prior to said date, and with
18 respect to sales, shipments, or deliveries of insecticides and
19 fungicides under an exemption granted by the Secretary
20 under section 15, all provisions of the Insecticide Act of
21 1910 shall be deemed to remain in full force for the purpose
22 of sustaining any proper suit, action, or other proceeding
23 with respect to any such violations, liabilities, appeals, or

- 1 to such sales, shipments, or deliveries of insecticides and
- 2 fungicides exempted by the Secretary under section 15.

Passed the House of Representatives May 12, 1947.

Attest:

JOHN ANDREWS,

Clerk.

80TH CONGRESS
1ST SESSION

H. R. 1237

[Report No. 199]

AN ACT

To regulate the marketing of economic poisons
and devices, and for other purposes.

MAY 13 (legislative day, APRIL 21), 1947

Read twice and referred to the Committee on
Agriculture and Forestry

MAY 26 (legislative day, APRIL 21), 1947

Reported without amendment

June 16

CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
Division of Legislative Reports
(For Department staff only)

Issued June 17, 1947
For actions of June 16, 1947
80th-1st, No. 113

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HIGHLIGHTS: House agreed to conference report on wool bill. House passed Remount Service transfer bill. House passed bill to protect forests from insects and diseases. Senate passed bill to regulate marketing of insecticides, rodenticides, weed killers, etc. Senate passed Interior appropriation bill. Senate passed bill to change boundaries of Gila reclamation project. Sen. Pepper introduced rural-industrialization bill. Rep. Douglas introduced and discussed bill to authorize a farm-labor program in Labor Department.

HOUSE

1. **WOOL-PRICE SUPPORTS.** Agreed to the conference report on S. 814, the wool bill, after rejecting, 166-191, a motion by Rep. Rayburn to recommit the bill to conference (pp. 7253-64).
The bill provides as follows: Requires that, until Dec. 31, 1948, CCC shall support the price of wool at the 1946 level. Authorizes CCC to sell its wool at less than parity. Makes Sec. 22 of the AAA Act applicable to wool programs under the bill provided that no action under this provision shall be in contravention of existing international agreements.
The Senate has not yet acted on the conference report.
2. **FORESTRY.** Passed without amendment S. 597, to provide for protection of forests from insects and diseases (pp. 7238-9). This bill will now be sent to the President.
3. **CIVIL-SERVICE RETIREMENT.** Passed without amendment H. R. 3511, to extend until June 30, 1948, the provision for annuities for 25-years-service employees who have been involuntarily separated from service or have been voluntarily separated but have accepted positions with lower pay (p. 7235).
4. **REMOUNT SERVICE.** Passed as reported H. R. 3484, to transfer the Remount Service (which improves the breeds of horses) from the War Department to this Department, effective July 1, 1947 (p. 7244).
5. **WATER CONSERVATION.** Passed with amendments H. R. 2167, to authorize the Secretary of Agriculture to add certain lands to the Angostura water conservation and utilization project, S. Dak. (p. 7239).
6. **FISH AND WILDLIFE.** Passed without amendment H. R. 2721, to require that, in the management of existing facilities in the upper Mississippi River, the War

Department give full consideration to the needs of fish and other wildlife resources and their habitat dependent on such waters (pp. 7239-40).

7. INDEPENDENT OFFICES APPROPRIATION BILL. The Rules Committee reported a resolution waiving points of order on this bill, H. R. 3839 (p. 7266). It is expected that debate on this bill will begin today.
8. TAXATION. Received the President's veto message on H. R. 1, the tax-reduction bill (H. Doc. 322)(pp. 7227-8). A vote on whether to over-ride the veto is expected today.
9. PERSONNEL. A subcommittee of the Post Office and Civil Service Committee agreed to recommend to the full committee H. R. 1426, extending veterans' preference to widowed mothers of veterans, and H. R. 3520, to amend the veterans' preference provisions regarding ratings on civil-service examinations (p. D386).
10. FLOOD CONTROL. Rep. LeCompte, Iowa, urged flood-control appropriations, describing flood damage to farm crops in Iowa (p. 7218).
11. FORESTRY. After discussion, Rep. Cole, N. Y., asked that H. R. 1826, making it a petty offense to enter any national-forest land while it is closed to the public, be passed over without prejudice in order that the Committee might correct its report (p. 7229).
12. RECLAMATION. On objections of Reps. Harris, Allen of La., Brooks, Gathings, and Larcade. H. R. 1274, to extend the reclamation laws to Ark., was stricken from the consent calendar (p. 7229).
13. MILITARY LEAVE. Passed as reported H. R. 1845, to amend existing laws regarding military leave for U. S. employees so as to equalize rights to leave and reemployment for such employees who are members of the Enlisted or Officers' Reserve Corps, the National Guard, or the Naval Reserve (pp. 7235-6).

SENATE

14. MARKETING; INSECT CONTROL. Passed without amendment H.R. 1237, to regulate the marketing of insecticides, rodenticides, weed killers, etc. (p. 7161). This bill will now be sent to the President.
15. INTERIOR DEPARTMENT APPROPRIATION BILL, 1948. Passed as reported this bill, H.R. 3123 (pp. 7173, 7177-94). Sens. Wherry, Gurney, Ball, Cordon, Hayden, Thomas (Okla.), and O'Mahoney were appointed conferees (p. 7194). House conferees not yet appointed.
16. RECLAMATION. Passed as reported S. 483, to relocate the boundaries and reduce the area of the Gila Reclamation project (pp. 7174-5).
Passed without amendment H.R. 3197, to increase the reimbursable construction cost obligation and extend repayment period of the Mancos Water Conservancy District (p. 7168). This bill will now be sent to the President.
Passed without amendment H.R. 3348, to declare U.S. policy with respect to allocation of construction costs of Coachella Division of the All-American irrigation project, Calif. (p. 7168). This bill will now be sent to the President.
Passed without amendment H.R. 3143, to authorize construction of the Paonia Federal reclamation project, Colo. (p. 7168). This bill will now be sent to the President.

referred to the Committee on Interstate and Foreign Commerce.

To the Congress of the United States:

I transmit herewith, for the information of the Congress, the ninety-sixth annual report of the Board of Directors of the Panama Railroad Company for the fiscal year ended June 30, 1946.

HARRY S. TRUMAN.

THE WHITE HOUSE, June 16, 1947.

EXECUTIVE MESSAGES REFERRED

As in executive session,

The PRESIDENT pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations this day received see the end of Senate proceedings.)

SUPPLY OF WATER FOR FALLS CHURCH, VA., ETC.

The PRESIDENT pro tempore. The clerk will proceed to call the calendar beginning with Order No. 197, Senate bill 482.

The bill (S. 482) to authorize the Secretary of War to permit the delivery of water from the District of Columbia and Arlington County water systems to the Falls Church or other water systems in the metropolitan area of the District of Columbia in Virginia, was announced as first in order.

The PRESIDENT pro tempore. The bill, the title of which has just been stated, is the same as Calendar No. 230, House bill 310. Is there objection to the House bill being substituted for the Senate bill and being considered at this time?

There being no objection, the bill (H. R. 310) to authorize the Secretary of War to permit the delivery of water from the District of Columbia and Arlington County water systems to the Falls Church or other water systems in the metropolitan area of the District of Columbia in Virginia, was considered, ordered to a third reading, read the third time and passed.

The PRESIDENT pro tempore. Without objection, Senate bill 482 is indefinitely postponed.

BILL PASSED OVER

The bill (H. R. 1179) to aid in defraying the expenses of the seventeenth triennial convention of the World's Woman's Christian Temperance Union to be held in this country in June 1947, was announced as next in order.

Mr. McGRATH. Over.

The PRESIDENT pro tempore. The bill will be passed over.

MARKETING OF ECONOMIC POISONS AND DEVICES

The Senate proceeded to consider the bill (H. R. 1237) to regulate the marketing of economic poisons and devices, and for other purposes.

Mr. REVERCOMB. Mr. President, may we have an explanation of the bill?

Mr. ELLENDER. Mr. President, this bill was considered by, and received the unanimous approval, of the Committee on Agriculture and Forestry. The bill passed the House of Representatives without objection and with little discussion. The bill is intended to replace and

expand the protection afforded by the present Insecticide Act of 1910. Such a bill is necessary because of the vast progress made in recent years pertaining to the development of many new insecticide poisons. The measure protects those who use such poisons, and also the public in general, by compelling those who handle them for sale and distribution to follow certain rules and regulations.

If the Senator will look at page 2 of the report, he will see the reasons advanced for broadening the act of 1910.

It is primarily due to the fact that today many more poisons are used by farmers and others. When the present law on the subject was enacted insecticides and fungicides were comparatively simple, consisting largely of paris green, pyrethrum, bordeaux mixture, and similar materials. We have added many new poisons, including DDT which is one of the more important additions. As I have just stated one of the main considerations for the enactment of the measure is to insure that poisons shall be labeled so as to show what they are and how they should be used. In recent months the use of some of the new poisons has caused a good deal of damage to livestock as well as growing crops in the locality where used. Permit me to say that other important improvements over the present laws are as follows:

1. A provision requiring the registration of economic poisons prior to their sale or introduction into interstate or foreign commerce.

2. The inclusion of provisions for protection of the public against poisoning by requiring prominently displayed poison warnings on the labels of highly toxic economic poisons.

3. A provision requiring the coloring or discoloring of dangerous white powdered economic poisons to prevent their being mistaken for flour, sugar, salt, baking powder, or other similar articles commonly used in the preparation of foodstuffs.

4. A requirement that warning or caution statements be contained on the label of the economic poison to prevent injury to living man, other vertebrate animals, vegetation, and useful invertebrate animals.

5. A provision requiring instructions for use to provide adequate protection for the public.

6. A provision declaring economic poisons to be misbranded if they are injurious to man, vertebrate animals, or vegetation, except weeds, when properly used.

7. A provision requiring information to be furnished with respect to the delivery, movement, or holding of economic poisons and devices.

One of the principal provisions of the bill is the one providing for the registration of economic poisons prior to their being marketed. It is believed that this provision will provide additional protection for the public, assist manufacturers in complying with the provisions of the bill, and at the same time hold administrative costs to a minimum. Under the existing law, the Administrator has no means of ascertaining or knowing what economic poisons are being marketed, except by having a force of inspectors circulating through the country picking up samples here and there, wherever they may be found. Frequently, serious damage is suffered by agricultural producers and other users of economic poisons through the use of misbranded or adulterated economic poisons before the enforcement officials have any knowledge of the existence of such articles, or of their being offered to the public.

Under this bill, any economic poison subject to the provisions thereof will be brought to the attention of the enforcement officials who will have an opportunity to become familiar with the formula, label, and claims made with respect to any such economic poison before it is offered to the public. It should be possible, therefore, in a great majority of instances, to prevent false and misleading claims, and to prevent worthless articles from being marketed, and to provide a means of obtaining speedy remedial action if any such articles are marketed. Thus, a great measure of protection can be accorded directly through the prevention of injury rather than having to resort solely to the imposition of sanctions for violations after damage or injury has been done. Registration will also afford manufacturers an opportunity to eliminate many objectionable features from their labels prior to placing an economic poison on the market.

The bill in most of its provisions is in accord with and supplements the provisions of the proposed uniform State Insecticide, Fungicide, and Rodenticide Act which has been recommended for adoption by the Council of State Governments. It is believed that the enactment of this bill will greatly facilitate the coordination of work in this field among the States and with the Federal Government. It is highly desirable that laws governing economic poisons be as nearly uniform as possible consistent with the need for the protection of the public, so that manufacturers may have Nation-wide distribution with a minimum of conflict between the labeling requirements of the various laws.

Mr. REVERCOMB. Mr. President, since the bill deals with the use of poisons for agricultural purposes, I have no objection.

The PRESIDENT pro tempore. The question is on the third reading of the bill.

The bill was ordered to a third reading, read the third time, and passed.

CONSTRUCTION OF RURAL POST ROADS

The bill (H. R. 1874) to amend the act entitled "An Act to provide that the United States shall aid the States in the construction of rural post roads and for other purposes," was considered, ordered to a third reading, read the third time, and passed.

SCHOOL BUILDING AT MOCLIPS, WASH.

The bill (S. 1318) to provide funds for cooperation with the school board of the Moclips-Aloha District for the construction and equipment of a new school building in the town of Moclips, Grays Harbor County, Wash., to be available to both Indian and non-Indian children, was announced as next in order.

The PRESIDENT pro tempore. The House bill 2545, Order No. 231, is identical with the Senate bill. Is there objection to the substitution of the House bill for the Senate bill and its present consideration?

There being no objection, the Senate proceeded to consider the bill (H. R. 2545) to provide funds for cooperation with the school board of the Moclips-Aloha District for the construction and equipment of a new school building in the town of Moclips, Grays Harbor County, Wash., to be available to both Indian and non-Indian children.

Mr. LUCAS. Mr. President, may we have an explanation of the bill?

Mr. BUTLER. This bill would authorize the appropriation of Federal

funds for construction of a school building in Moclips, Wash., on a cooperative basis with the local school authorities. It follows the usual pattern of bills of this type. Construction of the school is apparently necessary, and, when erected, it will take care of about 90 Indian children, as well as the white children, in the neighborhood.

The Senate bill has a minor amendment clarifying the language so as to make sure that the Secretary of the Interior will have adequate control over the expenditure of the money. It is in the usual form of bills of this kind.

Mr. LUCAS. Are there precedents for this type of appropriation?

Mr. BUTLER. I was not informed about that.

Mr. LUCAS. Is this for an Indian school?

Mr. BUTLER. Yes; a joint Indian and white school.

In order to make the House bill conform with the Senate bill as reported by the Committee on Labor and Public Welfare, I move to amend, on page 1, line 5, after the word "for", by inserting the words "expenditure under the direction of the Secretary of the Interior for."

The PRESIDENT pro tempore. The question is on agreeing to the amendment offered by the Senator from Nebraska.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

The PRESIDENT pro tempore. Without objection, Senate bill 1318 is indefinitely postponed.

LANDS FOR PARK PURPOSES, HILL COUNTY, MONT.

The bill (H. R. 2353) to authorize the patenting of certain public lands to the State of Montana or to the Board of County Commissioners of Hill County, Mont., for public-park purposes was considered, ordered to a third reading, read the third time, and passed.

STANDARDIZATION OF GEOGRAPHIC NAMES

The bill (S. 1262) to provide a central authority for standardizing geographic names for the purpose of eliminating duplication in standardizing such names among the Federal departments, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted, etc., That the Secretary of the Interior, hereinafter called the Secretary, conjointly with the Board of Geographic Names, as hereinafter provided, shall provide for uniformity in geographic nomenclature and orthography throughout the Federal Government. The Secretary may exercise his functions through such officials as he may designate, except that such authority as relates to the final approval or review of actions of the Board on Geographic Names shall be exercised by him, or his Under or Assistant Secretaries.

SEC. 2. There is hereby established a Board on Geographic Names, hereinafter called the Board. The membership of the Board shall include one representative from each of the Departments of State, War, Navy, Post Office, Interior, Agriculture, and Commerce, and from the Government Printing Office, and

the Library of Congress. The Board may also include representatives from such Federal agencies as the Secretary, upon recommendation of the Board, shall from time to time find desirable, even though these agencies are in the departments otherwise represented on the Board. The members of the Board shall be appointed by the respective heads of the departments or independent agencies that they represent. Each member shall be appointed for a 2-year term but may be reappointed to successive terms. The members of the Board shall serve without additional compensation. The Board shall nominate a Chairman to be appointed by the Secretary, and shall establish such working committees as are found desirable.

SEC. 3. The Board, subject to the approval of the Secretary, shall formulate principles, policies, and procedures to be followed with reference to both domestic and foreign geographic names; and shall decide the standard names and their orthography for official use. The principles, policies, and procedures formulated hereunder shall be designed to serve the interests of the Federal Government and the general public, to enlist the effective cooperation of the Federal departments and agencies most concerned, and to give full consideration to the specific interests of particular Federal and State agencies. Action may be taken by the Secretary in any matter wherein the Board does not act within a reasonable time. The Board may make such recommendations to the Secretary as it finds appropriate in connection with this act.

SEC. 4. The Secretary shall cause such studies and investigations to be made and such records to be kept as may be necessary or desirable in carrying out the purposes of this act, and he shall provide a place of meeting and staff assistance to the Board. The staff shall be responsible to the Secretary, who shall prescribe its relations to the Board and the committees of the Board. The Secretary may establish from time to time, upon recommendation of the Board, advisory committees of United States citizens who are recognized experts in their respective fields to assist in the solution of special problems arising under this act.

SEC. 5. For the guidance of the Federal Government, the Secretary shall promulgate in the name of the Board, from time to time and in such form as will carry out the purposes of this act, decisions with respect to geographic names and principles of geographic nomenclature and orthography. The Secretary shall also furnish such additional information with respect to geographic names as will assist in carrying out the purposes of this act.

SEC. 6. With respect to geographic names the pertinent decisions and principles issued by the Secretary shall be standard for all material published by the Federal Government. The United States Board on Geographical Names in the Department of the Interior created by Executive order, is hereby abolished, and the duties of said Board are transferred to the Board herein created, and all departments, bureaus, and agencies of the Federal Government shall refer all geographic names and problems to the said Board for the purpose of eliminating duplication of work, personnel, and authority.

SEC. 7. Nothing in this act shall be construed as applying to the naming of the offices or establishments of any Federal agency.

SEC. 8. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this act.

DISPOSAL OF MATERIALS ON PUBLIC LANDS

The Senate proceeded to consider the bill (S. 1185) to provide for the disposal of materials on the public lands of the United States.

Mr. ELLENDER. Mr. President, may we have an explanation of the bill? I

should like to know what materials are to be disposed of.

Mr. CORDON. Mr. President, the authority in the bill is to dispose chiefly of forest products on the unappropriated public domain. It may include other types of materials which are available, but there has been no authority heretofore for the disposal, particularly, of merchantable timber on public lands which are unappropriated and unreserved. The purpose of the bill is to give such authority to the Secretary of the Interior.

The PRESIDENT pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

CORRECTION OF ERROR IN NATIONALITY ACT

The bill (H. R. 2237) to correct an error in section 342 (b) (8) of the Nationality Act of 1940, as amended, was considered, ordered to a third reading, read the third time, and passed.

FLATHEAD INDIAN IRRIGATION PROJECT

The bill (S. 753) to authorize the Secretary of the Interior to defer the collection of certain irrigation construction charges against lands under the Flathead Indian irrigation project, Montana, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted, etc., That, notwithstanding any provisions of the act entitled "An act to authorize the Secretary of the Interior to investigate and adjust irrigation charges on irrigation lands within projects on Indian reservations, and for other purposes," approved June 22, 1936 (49 Stat. 1803), the Secretary of the Interior is authorized and directed to defer the collection of irrigation construction charges on the Flathead Indian irrigation project until January 1, 1949.

ARTHUR ALEXANDER POST, NO. 68, AMERICAN LEGION, BELZONI, MISS.

The bill (H. R. 1412) to grant to the Arthur Alexander Post, No. 68, the American Legion, of Belzoni, Miss., all of the reversionary interest reserved to the United States in lands conveyed to said post pursuant to act of Congress approved June 29, 1938, was considered, ordered to a third reading, read the third time, and passed.

ELWOOD L. KEELER

The bill (H. R. 765) for the relief of Elwood L. Keeler was considered, ordered to a third reading, read the third time, and passed.

LIABILITY FOR DEATH BY WRONGFUL ACT

The Senate proceeded to consider the bill (S. 1265) to amend sections 1301 and 1303 of the Code of Law for the District of Columbia relating to liability for causing death by wrongful act, which had been reported from the Committee on the District of Columbia with amendments in section 1, page 2, line 12, after the word "the," to strike out "widow" and insert "spouse"; on line 14, after the word "That", to insert "if there be a surviving spouse"; and on line 17, after the word "kin", to insert "Provided, That if in a particular case the verdict is deemed excessive the trial justice or the United

June 25

[PUBLIC LAW 104—80TH CONGRESS]

[CHAPTER 125—1ST SESSION]

[H. R. 1237]

AN ACT

To regulate the marketing of economic poisons and devices, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE

SECTION 1. This Act may be cited as the "Federal Insecticide, Fungicide, and Rodenticide Act".

DEFINITIONS

SEC. 2. For the purposes of this Act—

a. The term "economic poison" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects, rodents, fungi, weeds, and other forms of plant or animal life or viruses, except viruses on or in living man or other animals, which the Secretary shall declare to be a pest.

b. The term "device" means any instrument or contrivance intended for trapping, destroying, repelling, or mitigating insects or rodents or destroying, repelling, or mitigating fungi or such other pests as may be designated by the Secretary, but not including equipment used for the application of economic poisons when sold separately therefrom.

c. The term "insecticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects which may be present in any environment whatsoever.

d. The term "fungicide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any fungi.

e. The term "rodenticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating rodents or any other vertebrate animal which the Secretary shall declare to be a pest.

f. The term "herbicide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any weed.

g. The term "weed" means any plant which grows where not wanted.

h. The term "insect" means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class insecta, comprising six-legged, usually winged forms, as, for example, beetles, bugs, bees, flies, and to other allied classes of arthropods whose members are wingless and usually have more than six legs, as, for example, spiders, mites, ticks, centipedes, and wood lice.

i. The term "fungi" means all non-chlorophyll-bearing thallophytes (that is, all non-chlorophyll-bearing plants of a lower order than mosses and liverworts) as, for example, rusts, smuts, mildews, molds, yeasts, and bacteria, except those on or in living man or other animals.

j. The term "ingredient statement" means either—

(1) a statement of the name and percentage of each active ingredient, together with the total percentage of the inert ingredients, in the economic poison; or

(2) a statement of the name of each active ingredient, together with the name of each and total percentage of the inert ingredients, if any there be, in the economic poison (except option 1 shall apply if the preparation is highly toxic to man, determined as provided in section 6 of this Act);

and, in addition to (1) or (2) in case the economic poison contains arsenic in any form, a statement of the percentages of total and water soluble arsenic, each calculated as elemental arsenic.

k. The term "active ingredient" means an ingredient which will prevent, destroy, repel, or mitigate insects, fungi, rodents, weeds or other pests.

l. The term "inert ingredient" means an ingredient which is not active.

m. The term "antidote" means a practical immediate treatment in case of poisoning and includes first-aid treatment.

n. The term "person" means any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not.

o. The term "Territory" means any Territory or possession of the United States, excluding the Canal Zone.

p. The term "Secretary" means the Secretary of Agriculture.

q. The term "registrant" means the person registering any economic poison pursuant to the provisions of this Act.

r. The term "label" means the written, printed, or graphic matter on, or attached to, the economic poison or device or the immediate container thereof, and the outside container or wrapper of the retail package, if any there be, of the economic poison or device.

s. The term "labeling" means all labels and other written, printed, or graphic matter—

(1) upon the economic poison or device or any of its containers or wrappers;

(2) accompanying the economic poison or device at any time;

(3) to which reference is made on the label or in literature accompanying the economic poison or device, except to current official publications of the United States Departments of Agriculture and Interior, the United States Public Health Service, State experiment stations, State agricultural colleges, and other similar Federal or State institutions or agencies authorized by law to conduct research in the field of economic poisons;

t. The term "adulterated" shall apply to any economic poison if its strength or purity falls below the professed standard or quality as expressed on its labeling or under which it is sold, or if any substance has been substituted wholly or in part for the article, or if any valuable constituent of the article has been wholly or in part abstracted.

u. The term "misbranded" shall apply—

(1) to any economic poison or device if its labeling bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular;

(2) to any economic poison—

(a) if it is an imitation of or is offered for sale under the name of another economic poison;

(b) if its labeling bears any reference to registration under this Act;

(c) if the labeling accompanying it does not contain directions for use which are necessary and if complied with adequate for the protection of the public;

(d) if the label does not contain a warning or caution statement which may be necessary and if complied with adequate to prevent injury to living man and other vertebrate animals, vegetation, and useful invertebrate animals;

(e) if the label does not bear an ingredient statement on that part of the immediate container and on the outside container or wrapper, if there be one, through which the ingredient statement on the immediate container cannot be clearly read, of the retail package which is presented or displayed under customary conditions of purchase: *Provided*, That the Secretary may permit the ingredient statement to appear prominently on some other part of the container, if the size or form of the container makes it impracticable to place it on the part of the retail package which is presented or displayed under customary conditions of purchase.

(f) if any word, statement, or other information required by or under authority of this Act to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or graphic matter in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; or

(g) if in the case of an insecticide, fungicide, or herbicide when used as directed or in accordance with commonly recognized practice it shall be injurious to living man or other vertebrate animals, or vegetation, except weeds, to which it is applied, or to the person applying such economic poison.

PROHIBITED ACTS

SEC. 3. (a) It shall be unlawful for any person to distribute, sell, or offer for sale in any Territory or in the District of Columbia, or to ship or deliver for shipment from any State, Territory, or the District of Columbia to any other State, Territory, or the District of Columbia, or to any foreign country, or to receive in any State, Territory, or the District of Columbia from any other State, Territory, or the District of Columbia, or foreign country, and having so received, deliver or offer to deliver in the original unbroken package to any other person, any of the following:

(1) Any economic poison which has not been registered pursuant to the provisions of section 4 of this Act, or any economic poison if any of the claims made for it or any of the directions for its use differ in

substance from the representations made in connection with its registration, or if the composition of an economic poison differs from its composition as represented in connection with its registration: *Provided*, That in the discretion of the Secretary, a change in the labeling or formula of an economic poison may be made within a registration period without requiring reregistration of the product.

(2) Any economic poison unless it is in the registrant's or the manufacturer's unbroken immediate container, and there is affixed to such container, and to the outside container or wrapper of the retail package, if there be one through which the required information on the immediate container cannot be clearly read, a label bearing—

(a) the name and address of the manufacturer, registrant, or person for whom manufactured;

(b) the name, brand, or trade-mark under which said article is sold; and

(c) the net weight or measure of the content: *Provided*, That the Secretary may permit reasonable variations.

(3) Any economic poison which contains any substance or substances in quantities highly toxic to man, determined as provided in section 6 of this Act, unless the label shall bear, in addition to any other matter required by this Act—

(a) the skull and crossbones;

(b) the word "poison" prominently (IN RED) on a background of distinctly contrasting color; and

(c) a statement of an antidote for the economic poison.

(4) The economic poisons commonly known as standard lead arsenate, basic lead arsenate, calcium arsenate, magnesium arsenate, zinc arsenate, zinc arsenite, sodium fluoride, sodium fluosilicate, and barium fluosilicate unless they have been distinctly colored or discolored as provided by regulations issued in accordance with this Act, or any other white powder economic poison which the Secretary, after investigation of and after public hearing on the necessity for such action for the protection of the public health and the feasibility of such coloration or discoloration, shall, by regulation, require to be distinctly colored or discolored, unless it has been so colored or discolored: *Provided*, That the Secretary may exempt any economic poison to the extent that it is intended for a particular use or uses from the coloring or discoloring required or authorized by this section if he determines that such coloring or discoloring for such use or uses is not necessary for the protection of the public health.

(5) Any economic poison which is adulterated or misbranded or any device which is misbranded.

b. Notwithstanding any other provision of this Act, no article shall be deemed in violation of this Act when intended solely for export to any foreign country and prepared or packed according to the specifications or directions of the foreign purchaser.

c. It shall be unlawful—

(1) for any person to detach, alter, deface, or destroy, in whole or in part, any label or labeling provided for in this Act or the rules and regulations promulgated hereunder, or to add any substance to, or take any substance from, an economic poison in a manner that may defeat the purpose of this Act;

(2) for any manufacturer, distributor, dealer, carrier, or other person to refuse, upon a request in writing specifying the nature or kind of economic poison or device to which such request relates, to furnish to or permit any person designated by the Secretary to have access to and to copy such records as authorized by section 5 of this Act;

(3) for any person to give a guaranty or undertaking provided for in section 7 which is false in any particular, except that a person who receives and relies upon a guaranty authorized under section 7 may give a guaranty to the same effect, which guaranty shall contain in addition to his own name and address the name and address of the person residing in the United States from whom he received the guaranty or undertaking; and

(4) for any person to use for his own advantage or to reveal, other than to the Secretary, or officials or employees of the United States Department of Agriculture, or other Federal agencies, or to the courts in response to a subpoena, or to physicians, and in emergencies to pharmacists and other qualified persons, for use in the preparation of antidotes, in accordance with such directions as the Secretary may prescribe, any information relative to formulas of products acquired by authority of section 4 of this Act.

REGISTRATION

SEC. 4. a. Every economic poison which is distributed, sold, or offered for sale in any Territory or the District of Columbia, or which is shipped or delivered for shipment from any State, Territory, or the District of Columbia to any other State, Territory, or the District of Columbia, or which is received from any foreign country shall be registered with the Secretary: *Provided*, That products which have the same formula, are manufactured by the same person, the labeling of which contains the same claims, and the labels of which bear a designation identifying the product as the same economic poison may be registered as a single economic poison; and additional names and labels shall be added by supplement statements; the registrant shall file with the Secretary a statement including—

(1) the name and address of the registrant and the name and address of the person whose name will appear on the label, if other than the registrant;

(2) the name of the economic poison;

(3) a complete copy of the labeling accompanying the economic poison and a statement of all claims to be made for it, including the directions for use; and

(4) if requested by the Secretary, a full description of the tests made and the results thereof upon which the claims are based.

b. The Secretary, whenever he deems it necessary for the effective administration of this Act, may require the submission of the complete formula of the economic poison. If it appears to the Secretary that the composition of the article is such as to warrant the proposed claims for it and if the article and its labeling and other material required to be submitted comply with the requirements of section 3 of this Act, he shall register it.

c. If it does not appear to the Secretary that the article is such as to warrant the proposed claims for it or if the article and its labeling and other material required to be submitted do not comply with the provisions of this Act, he shall notify the registrant of the manner in which the article, labeling, or other material required to be submitted fail to comply with the Act so as to afford the registrant an opportunity to make the corrections necessary. If, upon receipt of such notice, the registrant insists that such corrections are not necessary and requests in writing that it be registered, the Secretary shall register the article, under protest, and such registration shall be accompanied by a warning, in writing, to the registrant of the apparent failure of the article to comply with the provisions of this Act. In order to protect the public, the Secretary, on his own motion, may at any time, cancel the registration of an economic poison and in lieu thereof issue a registration under protest in accordance with the foregoing procedure. In no event shall registration of an article, whether or not protested, be construed as a defense for the commission of any offense prohibited under section 3 of this Act.

d. Notwithstanding any other provision of this Act, registration is not required in the case of an economic poison shipped from one plant to another plant operated by the same person and used solely at such plant as a constituent part to make an economic poison which is registered under this Act.

e. The Secretary is authorized to cancel the registration of any economic poison at the end of a period of five years following the registration of such economic poison or at the end of any five-year period thereafter, unless the registrant, prior to the expiration of each such five-year period, requests in accordance with regulations issued by the Secretary that such registration be continued in effect.

BOOKS AND RECORDS

SEC. 5. For the purposes of enforcing the provisions of this Act, any manufacturer, distributor, carrier, dealer, or any other person who sells or offers for sale, delivers or offers for delivery, or who receives or holds any economic poison or device subject to this Act, shall, upon request of any employee of the United States Department of Agriculture or any employee of any State, Territory, or political subdivision, duly designated by the Secretary, furnish or permit such person at all reasonable times to have access to, and to copy all records showing the delivery, movement, or holding of such economic poison or device, including the quantity, the date of shipment and receipt, and the name of the consignor and consignee; and in the event of the inability of any person to produce records containing such information, all other records and information relating to such delivery, movement, or holding of the economic poison or device. Notwithstanding this provision, however, the specific evidence obtained under this section shall not be used in a criminal prosecution of the person from whom obtained.

ENFORCEMENT

Src. 6. a. The Secretary (except as otherwise provided in this section) is authorized to make rules and regulations for carrying out

the provisions of this Act, including the collection and examination of samples of economic poisons and devices subject to this Act and the determination and establishment of suitable names to be used in the ingredient statement. The Secretary is, in addition, authorized after opportunity for hearing—

(1) to declare a pest any form of plant or animal life or virus which is injurious to plants, man, domestic animals, articles, or substances;

(2) to determine economic poisons, and quantities of substances contained in economic poisons, which are highly toxic to man; and

(3) to determine standards of coloring or discoloring for economic poisons, and to subject economic poisons to the requirements of section 3a (4) of this Act.

b. The Secretary of the Treasury and the Secretary of Agriculture shall jointly prescribe regulations for the enforcement of section 10 of this Act.

c. The examination of economic poisons or devices shall be made in the United States Department of Agriculture or elsewhere as the Secretary may designate for the purpose of determining from such examination whether they comply with the requirements of this Act, and if it shall appear from any such examination that they fail to comply with the requirements of this Act, the Secretary shall cause notice to be given to the person against whom criminal proceedings are contemplated. Any person so notified shall be given an opportunity to present his views, either orally or in writing, with regard to such contemplated proceedings, and if in the opinion of the Secretary it appears that the provisions of this Act have been violated by such person, then the Secretary shall certify the facts to the proper United States attorney, with a copy of the results of the analysis or the examination of such article: *Provided*, That nothing in this Act shall be construed as requiring the Secretary to report for prosecution or for the institution of libel proceedings minor violations of this Act whenever he believes that the public interest will be adequately served by a suitable written notice of warning.

d. It shall be the duty of each United States attorney, to whom the Secretary or his agents shall report any violation of this Act, to cause appropriate proceedings to be commenced and prosecuted in the proper courts of the United States without delay.

e. The Secretary shall, by publication in such manner as he may prescribe, give notice of all judgments entered in actions instituted under the authority of this Act.

EXEMPTIONS

SEC. 7. a. The penalties provided for a violation of section 3a of this Act shall not apply to—

(1) any person who establishes a guaranty signed by, and containing the name and address of, the registrant or person residing in the United States from whom he purchased and received in good faith the article in the same unbroken package, to the effect that the article was lawfully registered at the time of sale and delivery to him, and that it complies with the other requirements of this Act, designating this Act. In such case the

guarantor shall be subject to the penalties which would otherwise attach to the person holding the guaranty under the provisions of this Act;

(2) any carrier while lawfully engaged in transporting an economic poison or device if such carrier upon request by a person duly designated by the Secretary shall permit such person to copy all records showing the transactions in and movement of the articles;

(3) to public officials while engaged in the performance of their official duties;

(4) to the manufacturer or shipper of an economic poison for experimental use only by or under the supervision of any Federal or State agency authorized by law to conduct research in the field of economic poisons; or by others if a permit has been obtained before shipment in accordance with regulations promulgated by the Secretary.

PENALTIES

SEC. 8. a. Any person violating section 3a (1) of this Act shall be guilty of a misdemeanor and shall on conviction be fined not more than \$1,000.

b. Any person violating any provision other than section 3a (1) of this Act shall be guilty of a misdemeanor and shall upon conviction be fined not more than \$500 for the first offense, and on conviction for each subsequent offense be fined not more than \$1,000 or imprisoned for not more than one year, or both such fine and imprisonment: *Provided*, That an offense committed more than five years after the last previous conviction shall be considered a first offense: *And provided further*, That in any case where a registrant was issued a warning by the Secretary pursuant to the provisions of section 4c of this Act, he shall in each instance upon conviction for an offense concerning which he had been so warned, be fined not more than \$1,000 or imprisoned for not more than one year, or both such fine and imprisonment; and the registration of the article with reference to which the violation occurred shall terminate automatically. An article the registration of which has been terminated may not again be registered unless the article, its labeling, and other material required to be submitted appear to the Secretary to comply with all the requirements of this Act.

c. Notwithstanding any other provision of this section, in case any person, with intent to defraud, uses or reveals information relative to formulas of products acquired under the authority of section 4 of this Act, he shall be fined not more than \$10,000 or imprisoned for not more than three years, or both such fine and imprisonment.

d. When construing and enforcing the provisions of this Act, the act, omission, or failure, of any officer, agent, or other person acting for or employed by any person shall in every case be also deemed to be the act, omission, or failure of such person as well as that of the person employed.

SEIZURES

SEC. 9. a. Any economic poison or device that is being transported from one State, Territory, or District to another, or, having been transported, remains unsold or in original unbroken packages, or that

is sold or offered for sale in the District of Columbia or any Territory, or that is imported from a foreign country, shall be liable to be proceeded against in any district court of the United States in the district where it is found and seized for confiscation by a process of libel for condemnation—

- (1) in the case of an economic poison—
 - (a) if it is adulterated or misbranded;
 - (b) if it has not been registered pursuant to the provisions of section 4 of this Act;
 - (c) if it fails to bear on its label the information required by this Act; or
 - (d) if it is a white powder economic poison and is not colored as required under this Act; or
- (2) in the case of a device if it is misbranded.

b. If the article is condemned it shall, after entry of the decree, be disposed of by destruction or sale as the court may direct and the proceeds, if sold, less the legal costs, shall be paid into the Treasury of the United States, but the article shall not be sold contrary to the provisions of this Act or of the laws of the jurisdiction in which it is sold: *Provided*, That upon the payment of the costs of the libel proceedings and the execution and delivery of a good and sufficient bond conditioned that the article shall not be sold or otherwise disposed of contrary to the provisions of this Act or the laws of any State, Territory, or District in which sold, the court may direct that such articles be delivered to the owner thereof. The proceedings of such libel cases shall conform, as near as may be, to the proceedings in admiralty, except that either party may demand trial by jury of any issue of fact joined in any case, and all such proceedings shall be at the suit of and in the name of the United States.

c. When a decree of condemnation is entered against the article, court costs and fees, storage, and other proper expenses shall be awarded against the person, if any, intervening as claimant of the article.

IMPORTS

SEC. 10. The Secretary of the Treasury shall notify the Secretary of Agriculture of the arrival of economic poisons and devices offered for importation and shall deliver to the Secretary of Agriculture, upon his request, samples of economic poisons or devices which are being imported or offered for import into the United States, giving notice to the owner or consignee, who may appear before the Secretary of Agriculture and have the right to introduce testimony. If it appears from the examination of a sample that it is adulterated, or misbranded or otherwise violates the prohibitions set forth in this Act, or is otherwise dangerous to the health of the people of the United States, or is of a kind forbidden entry into or forbidden to be sold or restricted in sale in the country in which it is made or from which it is exported, the said article may be refused admission, and the Secretary of the Treasury shall refuse delivery to the consignee and shall cause the destruction of any goods refused delivery which shall not be exported by the consignee within three months from the date of notice of such refusal under such regulations as the Secretary of the Treasury may prescribe: *Provided*, That the Secretary of the Treasury may deliver to the consignee such goods pending examination and decision

in the matter on execution of a penal bond for the amount of the full invoice value of such goods, together with the duty thereon, and on refusal to return such goods for any cause to the custody of the Secretary of the Treasury, when demanded, for the purpose of excluding them from the country, or for any other purpose, said consignee shall forfeit the full amount of the bond: *And provided further*, That all charges for storage, cartage, and labor on goods which are refused admission or delivery shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against any future importation made by such owner or consignee.

DELEGATION OF DUTIES

SEC. 11. All authority vested in the Secretary by virtue of the provisions of this Act may with like force and effect be executed by such employees of the United States Department of Agriculture as the Secretary may designate for the purpose.

AUTHORIZATION FOR APPROPRIATIONS AND EXPENDITURES

SEC. 12. a. There is hereby authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary for the purposes and administration of this Act. In order to carry out the provisions of this Act, which take effect prior to the repeal of the Insecticide Act of 1910, appropriations available for the enforcement of such Act are authorized to be made available.

b. The Secretary is authorized from the funds appropriated for this Act to make such expenditures as he deems necessary, including rents, travel, supplies, books, samples, testing devices, furniture, equipment, and such other expenses as may be necessary to the administration of this Act.

COOPERATION

SEC. 13. The Secretary is authorized to cooperate with any other department or agency of the Federal Government and with the official agricultural or other regulatory agency of any State, or any State, Territory, District, possession, or any political subdivision thereof, in carrying out the provisions of this Act, and in securing uniformity of regulations.

SEPARABILITY

SEC. 14. If any provision of this Act is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of this Act and the applicability thereof to other persons and circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 15. All provisions of this Act, except section 3, "Prohibited Acts"; section 8, "Penalties"; section 9, "Seizures"; and section 10, "Imports", shall take effect upon enactment, and sections 3, 8, 9, and 10 of this Act shall take effect as follows: (1) As to devices, upon enactment; (2) as to rodenticides and herbicides, six months after enactment; and (3) as to insecticides, fungicides, and all other economic poisons, one year after enactment: *Provided*, That the

Secretary, upon application, may at any time within one year after sections 3, 8, 9, and 10 of this Act become applicable to devices, rodenticides and herbicides, and insecticides, fungicides, and other economic poisons, respectively, if he determines that such action will not be unduly detrimental to the public interest, and is necessary to avoid hardship, exempt, under such terms and conditions as he may prescribe, any economic poison from the provisions of this Act if such economic poison was labeled, shipped, and delivered by the manufacturer thereof prior to the time the sections of this Act referred to above become applicable to such economic poison and in case the economic poison is an insecticide or fungicide if its sale, delivery, or shipment has not been and will not be in violation of the provisions of the Insecticide Act of 1910.

REPEALS

SEC. 16. The Insecticide Act of 1910, approved April 26, 1910 (36 Stat. 331, 7 U. S. C. 121-134), is hereby repealed one year after the date of the enactment of this Act: *Provided*, That, with respect to violations, liabilities incurred, or appeals taken prior to said date, and with respect to sales, shipments, or deliveries of insecticides and fungicides under an exemption granted by the Secretary under section 15, all provisions of the Insecticide Act of 1910 shall be deemed to remain in full force for the purpose of sustaining any proper suit, action, or other proceeding with respect to any such violations, liabilities, appeals, or to such sales, shipments, or deliveries of insecticides and fungicides exempted by the Secretary under section 15.

Approved June 25, 1947.

